

based on each year's final Cost of Money Factors determined under CAS 414 and supported by separate Form CASB-CMF. Contract cost must be separately computed in a manner similar to yearly final overhead rates. Also like overhead costs, the final settlement will include an adjustment from interim to final contract cost of money. However, estimated or target cost will not be adjusted.

1830.7002 Facilities capital employed for facilities under construction.

1830.7002-1 Definitions.

The following definitions have been taken or developed from Cost Accounting Standard (CAS) 417, Cost of Money as an Element of the Cost of Capital Assets Under Construction.

(a) *Cost of money rate.* The cost of money rate is either the interest rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat 97), or the time-weighted average of such rates for each cost accounting period during which the asset is being constructed, fabricated, or developed. The time-weighted average interest rate is calculated by multiplying the various rates in effect during the months of construction by the number of months each rate was in effect. The sum of the products is divided by the total number of months in which the rates were experienced.

(b) *Representative investment.* The representative investment is the calculated amount considered invested by the contractor in the project to construct, fabricate, or develop the asset during the cost accounting period. In calculating the representative investment, consideration must be given to the rate or expenditure pattern of the investment, i.e., if most of the investment was at the end of the cost accounting period, the representative investment calculation must reflect this fact.

(1) If the contractor experiences an irregular or uneven expenditure pattern in the construction, fabrication, or development of a capital asset, i.e., a majority of the construction costs were incurred toward the beginning, middle, or end of the cost accounting period, the contractor must either:

(i) Determine a representative investment amount for the cost accounting period by calculating the average of the month-end balances for that cost accounting period; or

(ii) Treat month-end balances as individual representative investment amounts.

(2) If the construction, fabrication, or development costs were incurred in a fairly uniform expenditure pattern throughout the construction period, the contractor may:

(i) Determine a representative investment amount for the cost accounting period by averaging the beginning and ending balances of the construction, fabrication, or development cost account for the cost accounting period; or

(ii) Treat month-end balances as individual representative investment amounts.

1830.7002-2 Measurement.

(a) The imputed cost of money for an asset under construction, fabrication, or development is calculated by applying a cost of money rate (see 1830.7002-1(a)), to the representative investment amount (see 1830.7002-1(b)).

(1) When a representative investment amount is determined for a cost accounting period following 1830.7002-1(b)(1)(i) or 1830.7002-1(b)(2)(i), the cost of money rate used shall be the time-weighted average rate.

(2) When a monthly representative investment amount (see 1830.7002-1(b)(1)(ii) or 1830.7002-1(b)(2)(ii)) is used, the cost of money rate shall be the rate in effect each month.

(NOTE: Under this method, the cost of money calculating is made monthly and the total for the cost accounting period is the sum of the monthly calculations.)

(b) The method chosen by a contractor for determining the representative investment amount may be different for each capital asset being constructed, fabricated, or developed as long as the method fits the expenditure pattern of the construction costs incurred.

(c) The imputed cost of money will be capitalized only once in any cost accounting period; either at the end of

the period or at the end of the construction period, whichever comes first.

(d) When the construction of an asset takes more than one cost accounting period, the cost of money capitalized for the first cost accounting period will be included in determining the representative investment amount for any future cost accounting periods.

PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES

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AUTHORITY: 42 U.S.C. 2473 (c)(1).

SOURCE: 57 FR 837, Jan. 9, 1992, unless otherwise noted.

Subpart 1831.2—Contracts with Commercial Organizations

1831.205 Selected costs.

1831.205-18 Independent research and development and bid and proposal costs.

A class deviation from (FAR) 48 CFR 31.205-18(e) exists to permit costs contributed by a contractor under a cooperative arrangement with NASA to be considered as allowable IR&D costs if the work performed would have been allowed as contractor IR&D had there been no cooperative arrangement.

This deviation does not apply to costs contributed by the contractor under cost-sharing contracts described in (FAR) 48 CFR 16.303 and 1816.303.

[59 FR 22521, May 2, 1994]

1831.205-32 Precontract costs.

(a) The authorization of precontract costs is not encouraged and shall be granted only when there will be a sole source award or a single offeror has been selected for negotiations as the

result of a competitive procurement, the criteria at FAR 31.205-32 are met, and a written request and justification has been submitted to and approved by the procurement officer. The authorization of precontract cost shall not apply to firm-fixed-price contracts and fixed-price contracts with economic price adjustment. The justification shall:

(1) Substantiate the necessity for the contractor to proceed prior to contract award,

(2) Specify the start date of such contractor effort,

(3) Identify the total estimated time of the advanced effort, and

(4) Specify the cost limitation.

(b) Authorization to the contractor to incur precontract costs shall be in writing and shall:

(1) Specify the start date for incurrence of such costs,

(2) Specify a limitation on the total amount of precontract costs which may be incurred,

(3) State that the costs are allowable only to the extent they would have been if incurred after the contract had been entered into, and

(4) State that the Government is under no obligation to reimburse the contractor for any costs unless a contract is awarded.

(c) Precontract costs shall not be allowable unless the clause at 1852.231-70, Precontract Costs, is included in the contract.

[60 FR 29505, June 5, 1995]

1831.205-70 Contract clause.

The contracting officer shall insert the clause at 1852.231-70, Precontract Costs, in contracts for which specific coverage of precontract costs is authorized under 1831.205-32.

[60 FR 29505, June 5, 1995]

1831.205-670 Evaluation of contractor and subcontractor compensation for service contracts.

(a) The contracting officer shall evaluate the reasonableness of compensation for service contracts:

(1) Prior to the award of a cost reimbursement or non-competitive fixed-price type contract which has a total

potential value in excess of \$500,000, and

(2) Periodically after award for cost reimbursement contracts, but at least every three years.

(b) The contracting officer shall ensure the reasonableness of compensation is evaluated for cost reimbursement or non-competitive fixed-price type service subcontracts under a prime contract meeting the criteria in paragraph (a)(1) of this section where:

(1) The subcontract has a total potential value in excess of \$500,000, and

(2) The cumulative value of all of a subcontractor's service subcontracts under the prime contract is in excess of 10 percent of the prime contract's total potential value.

(c)(1) Offerors shall be required to submit as part of their proposals a compensation plan addressing all proposed labor categories. Offerors also shall demonstrate in writing that their proposed compensation is reasonable.

(2) Subcontractors meeting the criteria in paragraph (b) of this section shall be required to comply with paragraph (c)(1).

(d) The contracting officer's preaward evaluation of each offeror's and their subcontractors' compensation should be done as part of, or in addition to DCAA audits, price analyses, or any other means deemed to be necessary.

(e) The results of the contracting officer's evaluation, including any excessive compensation found and its planned resolution, shall be addressed in the prenegotiation position memorandum, with the final resolution discussed in the price negotiation memorandum.

(f) The contracting officer shall ensure that the reasonableness of compensation for cost reimbursement subcontracts meeting the criteria in paragraphs (b)(1) and (2) of this section is periodically reviewed after award, but at least every three years.

(g) The results of the periodic evaluations of contractor and subcontractor compensation after contract award shall be documented in the contract file.

[59 FR 12198, Mar. 16, 1994]

1831.205-671 Solicitation provision.

The contracting officer shall insert a provision substantially the same as the provision at 1852.231-71, Determination of Compensation, in solicitations for services which contemplate the award of a cost reimbursement or non-competitive fixed-price type service contract having a total potential value in excess of \$500,000.

[59 FR 12198, Mar. 16, 1994]

PART 1832—CONTRACT FINANCING

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AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 54 FR 28287, July 5, 1989, unless otherwise noted.

Subpart 1832.1—General

1832.111 Contract clauses.

1832.111-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.232-79, Payment for On-Site Preparatory Costs, in solicitations and contracts for construction on a fixed-price basis when progress payments are contemplated and pro rata payment of on-site preparatory costs to the contractor is appropriate.

1832.170 Voluntary refunds.

(a) *General.* A voluntary refund is a payment or credit, not required by any contractual or other legal obligation, made to the Government by a contractor or subcontractor either as a payment or as an adjustment under one or more contracts or subcontracts. It may be unsolicited or may be made in response to a Government request. If it is desired to solicit a refund from a subcontractor, the prime contractor should be encouraged to facilitate the making of such refund. In deciding whether or not to solicit a refund or accept an unsolicited refund, the contracting officer shall ask legal counsel to review the contract or contracts and all relevant data to determine whether

the Government's rights would be jeopardized or impaired by the contracting officer's proposed action.

(b) *Solicited refunds.* Voluntary refunds may be requested during or after contract performance. They shall be requested only when it is considered that the Government has been overcharged under a contract or inadequately compensated for the use of Government-owned property or in the disposition of contractor inventory, and retention by the contractor or subcontractor of the amount in question would be contrary to good conscience and equity. Generally, retention by the contractor or subcontractor shall not be considered contrary to good conscience and equity, and thus a refund shall not be requested, unless the overcharge or inadequate compensation was due, at least in part, to the fault of the contractor or subcontractor. The decision to solicit a refund shall be made by the Deputy Administrator or a designee after coordination with the Associate Administrator for Procurement.

(c) *Disposition of voluntary refunds.* (1) If a voluntary refund is offered before final payment, it is preferable that the contract price be appropriately modified to reflect the refund. In such a case, the amount of the refund shall be credited to the applicable appropriation cited in the contract.

(2) When the refund is made by check rather than by adjusting the contract price, the check shall be made payable to the National Aeronautics and Space Administration and shall be forwarded immediately to the Financial Management Office of the appropriate installation. When forwarded, the check shall be accompanied by a letter identifying it as a voluntary refund, giving the number of the contract or contracts involved and, if possible, the account number of the appropriation to which the refund should be credited.

Subpart 1832.4—Advance Payments

SOURCE: 57 FR 838, Jan. 9, 1992, unless otherwise noted.

1832.402 General.

Determinations and findings in support of advance payments, as authorized by the Armed Services Procurement Act of 1947, as amended (10 U.S.C. 2307(c) and 2310(b)), shall be prepared in accordance with 1832.410. The lowest level of authority at which these determinations and findings shall be made is:

(a) The Associate Administrator for Procurement (Code HC), for advance payments—

(1) Where the cumulative potential value for a single contract is greater than \$25,000,000, or where a contract modification will increase the amount outstanding at any time and the cumulative potential contract value will exceed \$25,000,000. Additional determinations and findings for increases to such contracts need not be prepared and submitted to the Associate Administrator for Procurement as long as the advance payment amount outstanding at any time is not increased;

(2) In any amount to a foreign entity; or

(3) In any amount when the organization will receive a fee for the effort involved.

(b) The procurement officer, for advance payments involving a single action or which results in the cumulative potential contract value of \$25,000,000 or less (other than to foreign entity or an organization that will receive a profit or fee), provided the action has been coordinated with the installation's Financial Management Officer.

[57 FR 838, Jan. 9, 1992, as amended at 60 FR 16059, Mar. 29, 1995]

1832.402-1 Small Business Innovation Research contracts.

Advance payments for all Small Business Innovation Research (SBIR) Phase I contracts have been authorized through a class deviation. This authorization is for the Government fiscal years ending September 30, 2000.

[57 FR 838, Jan. 9, 1992, as amended at 58 FR 51141, Sept. 30, 1993; 59 FR 12198, Mar. 16, 1994]

1832.402-2 Expendable launch vehicle services contracts.

Determinations and findings are not required for advance payments for con-

tracts supporting expendable launch vehicle (ELV) services contracts (however, see 1832.70 for Milestone Billing Arrangements). Instead all advance payments clauses for ELV services contracts shall be submitted to Code HC for concurrence prior to issuance of the solicitation (see 1832.7005), and to the Associate Administrator for Procurement (Code HC) for approval prior to award (see 1832.7006).

[58 FR 4086, Jan. 13, 1993]

1832.406 Letters of credit.

For the purposes of FAR 32.406(b)(1), each installation is considered a contracting agency.

1832.406-70 Federal Cash Transactions Report.

The report required by paragraph (m) of the clause at FAR 52.232-12, Advance Payments, or paragraph (j) of Alternate V of that clause, shall be submitted on Standard Form 272, Federal Cash Transactions Report, and, if appropriate, Standard Form 272-A, Federal Cash Transactions Report Continuation.

1832.407 Interest.

Advance payments without interest are hereby authorized, pursuant to FAR 32.407(d)(1).

1832.409-3 Security, supervision, and covenants.

The contracting officer, in consultation with the General Counsel, may require special security conditions, if appropriate, in particular cases. Those conditions may be included in solicitations and contracts that include the clause at FAR 52.232-12, Advance Payments.

1832.410 Findings, determination, and authorization.**1832.410-70 Instructions for determinations and findings.**

(a) Requests for Headquarters approval of advance payments, in accordance with 1832.402(a), shall be forwarded to the Associate Administrator for Procurement (Code HC). They should include (1) the name of the cognizant NASA Headquarters program or staff office; (2) the name and phone

number of the contracting officer or negotiator; (3) a copy of the proposed advance payments clause; (4) a copy of the contractor's request for advance payments, along with any supporting information; and (5) if a profit/fee is contemplated, the factors considered in determining the profit/fee (see Subpart 18.15.9), and (6) information as to how a determination was made that the Government has adequate security to cover the maximum advance payment amount at any time outstanding.

(b) 10 U.S.C. 2307 is normally the statutory authority cited for authorizing advance payments. When appropriate, advance payments may also be authorized under 42 U.S.C. 2473(c)(5) or under Public Law 85-804 as implemented by Executive Order 10789 (see FAR Part 50).

(c) Generally, the format in FAR 32.410 should be used, tailored as follows:

(1) The phrase "Advance payments (in an amount not to exceed \$. . . at any time outstanding)" at format paragraph (a)(2), and not the alternate phrase "(in an aggregate amount not exceeding . . .)," shall be used for all determinations and findings. The phrase means the maximum unliquidated dollar amount a contractor would need in advance payments at any point in time for the particular contract. The amount would not usually be the full contract value. The amount inserted should be based on an analysis of the contractor's financing needs (monthly or other appropriate period) for the specific contract involved.

(2) In the second sentence of format subparagraph (a)(4), delete the reference to a special bank account.

(3) Use format subparagraph (a)(6), not (a)(7) or (a)(8).

(4) At the end of format paragraph (b), use "is in the public interest."

1832.412 Contract clause.

Whenever the clause at FAR 52.232-12 is used, it shall be modified as set forth at 1852.232-12. In addition, the dollar amount to be inserted in the blank of the modified language of the "Maximum Payment" paragraph of the clause is the same amount determined for 1832.410-70(c)(1).

Subpart 1832.5—Progress Payments Based on Costs

1832.501 General.

1832.501-1 Customary progress payment rates.

The customary progress payment rate for all NASA contracts is 85 percent for large business, 90 percent for small business, and 95 percent for small disadvantaged business.

[56 FR 63877, Dec. 6, 1991]

1832.501-2 Unusual progress payments.

Requests for unusual progress payments must have the specific approval of the Associate Administrator for Procurement, with the concurrence of the Director, Financial Management Division (Code BF).

1832.502 Pre-award matters.

1832.502-2 Contract finance office clearance.

The approving authority for the actions specified in FAR 32.502-2 is the Associate Administrator for Procurement. Any such approvals should be coordinated with the Director, Financial Management Division.

1832.502-4 Contract clauses.

1832.502-470 NASA contract clause.

The contracting officer may insert a clause substantially as stated at 1852.232-82, Submission of Requests for Progress Payments, in fixed-price solicitations and contracts that provide for progress payments. The recipient of the requests may be changed if this function is delegated. The number of copies of the request may be changed if necessary to meet a substantial need.

1832.503 Post-award matters.

1832.503-3 Initiation of progress payments and review of accounting system.

In connection with the situations mentioned in FAR 32.503-3(b), the Financial Management Officer shall be notified.

1832.503-4 Approval of progress payment requests.

The contracting officer shall insert the clause at 1852.232-70, Progress Payments, in all solicitations and fixed-price contracts under which the Government will provide progress payments based on costs.

[56 FR 63877, Dec. 6, 1991, as amended at 57 FR 40855, Sept. 8, 1992]

1832.503-470 Contract clause.

The contracting officer shall insert the clause at 18-52.232-70, NASA Progress Payment Rates, in all solicitations and fixed-price contracts under which the Government will provide progress payments based on costs.

[57 FR 40855, Sept. 8, 1992]

1832.504 Subcontracts.

The Government approval mentioned in FAR 32.504(c) shall be as specified in 1832.502-2.

Subpart 1832.7—Contract Funding

SOURCE: 57 FR 839, Jan. 9, 1992, unless otherwise noted.

1832.702 Policy.**1832.702-70 NASA policy.**

(a) Cost-reimbursement contracts may be incrementally funded only if all the following conditions are met (except that, for cost-reimbursement R&D contracts under which no supplies are deliverable, only the condition in subparagraph (a)(3) of this section applies):

(1) The total value of the contract (including options as defined in FAR subpart 17.2) is \$1,000,000 or more.

(2) The period of performance under the contract is in excess of twelve months or overlaps the succeeding fiscal year.

(3) The funds are not available to fund the total contract value fully at the time of entering into the contract.

(b) Fixed-price contracts, other than those for research and development, shall not be incrementally funded.

(c)(1) Fixed-price contracts for research and development may be incrementally funded if—

(i) The total fixed price of the contract (including options as defined in FAR subpart 17.2) is \$1,000,000 or more;

(ii) The period of performance under the contract is in excess of twelve months or overlaps the succeeding fiscal year;

(iii) Funds are not available to fund the total fixed price of the contract at the time of entering into the contract; and

(iv) Initial funding of the contract is not less than 50 percent of the total fixed price.

(2) Notwithstanding the grant of authority to fund contracts incrementally under the circumstances in paragraph (1) of this section, fixed-price contracts shall be fully funded whenever possible, and incremental funding of such contracts shall be kept to an absolute minimum.

(d) Except as noted in paragraph (e) of this section, waiver of any of the conditions set forth in paragraphs (a), (b), and (c) of this section shall be submitted for approval to the installation procurement officer. Concurrence of the installation Comptroller must be obtained on all requests prior to approval by the procurement officer. The procurement officer shall maintain a record of all such approvals during the fiscal year. At a minimum, the record will include: contract number, description and type; dollar value; amount of funds initially available; and the reason(s) for the waiver.

(e) A class deviation from the conditions set forth in paragraphs (a), (b), and (c) of this section exists to permit incremental funding of contracts under Phase II of the SBIR Program until the last year of the program (FY 1993 unless extended). This deviation exists with the understanding that the contracts will be fully funded when funds become available.

[57 FR 839, Jan. 9, 1992, as amended at 59 FR 12198, Mar. 16, 1994]

1832.704 Limitation of cost or funds.

(a) When a contract contains the clause at 1852.232-77, Limitation of Funds (Fixed-Price Contract), the procedures in FAR 32.704 are applicable.

(b) The amount obligated for fee should always be at least sufficient to pay fee anticipated to be earned by the

contractor for the work to which the amount allotted for the estimated cost applies.

1832.705 Contract clauses.

1832.705-270 Additional clauses for limitation of cost or funds.

(a) The contracting officer shall insert the clause at 1852.232-77, Limitation of Funds (Fixed-Price Contract), in solicitations and contracts for fixed-price incrementally funded research and development.

(b) The contracting officer shall insert a clause substantially as stated at 1852.232-81, Contract Funding, in Section B of solicitations and contracts containing the clause at (FAR) 48 CFR 52.232-22, Limitation of Funds. Insert the amounts of funds available for payment, the items covered, and the applicable period of performance. The contracting officer may add additional funding information (such as a summary of old amounts, amount(s) added in contract modifications, and new totals) as appropriate for the particular procurement.

[57 FR 839, Jan. 9, 1992, as amended at 59 FR 12198, Mar. 16, 1994]

Subpart 1832.9—Prompt Payment

SOURCE: 57 FR 839, Jan. 9, 1992, unless otherwise noted.

1832.903 Policy.

As authorized at FAR 32.903, payments for contracts (other than Fixed-Price Architect-Contracts, Construction Contracts, and contracts for meats, perishables and dairy products) with the Canadian Commercial Corporation (CCC) shall be made earlier than the standard contract payment due dates.

1832.906 Contract financing payments.

It is NASA's policy to make contract financing payments on the 30th day after the designated billing office has received a proper request. However, as authorized at FAR 32.906(a), the due date for making contract financing payments for a specific contract may be earlier than the 30th day, but not earlier than 7 days, after the des-

ignated billing office has received a proper request, provided that:

(a) The contractor provides consideration whose value is determined to be greater than the cost to the United States Treasury of interest on funds paid prior to the 30th day, calculated using the Current Value of Funds Rate published annually in the FEDERAL REGISTER (subject to quarterly revision);

(b) Approval is obtained from the installation procurement officer with concurrence from the installation Financial Management Officer; and

(c) The contract file is adequately documented to state what consideration was received and show how the consideration was valued.

[58 FR 48615, Sept. 17, 1993]

1832.908 Contract clauses.

(a) When a clause at FAR 52.232-25, 52.232-26 or 52.232-27 is used, the clause at 52.232-28 shall be used as authorized by FAR 32.908(d), modified by deleting the words "and contract number" from paragraph (d). The following paragraph shall be inserted in FAR 52.232-28(b)(4) in lieu of the language at that location:

The Contractor shall submit a Standard Form 3881 to the installation awarding this contract. If a Standard Form 3881 previously submitted to the installation awarding this contract is still valid, resubmittal is not necessary, unless requested by NASA.

(b) When the clause at FAR 52.232-25, Prompt Payment, is used in contracting with the CCC subject to the conditions at 1832.970—

(1) The number "17" shall be used in lieu of "30" in paragraphs (a)(2)(i) and (a)(2)(ii) of the clause; and

(2) The number "17th" shall be inserted in paragraph (b)(2) of the clause.

1832.970 Payments to Canadian Commercial Corporation.

As authorized by FAR 32.903, the phrase "the 17th day" shall be used in lieu of the "the 30th day" at FAR 32.905(a)(1), 32.905(a)(2) and 32.906(a).

Subpart 1832.70—Milestone Billing Arrangements

SOURCE: 58 FR 4086, Jan. 13, 1993, unless otherwise noted.

1832.7001 General.

As authorized at FAR 32.102(e), milestone billing arrangements may be used for contract financing. Milestone billing arrangements fall between progress payments based on costs with unusual terms and advance payments in the order of preference specified in FAR 32.106. Milestone billing arrangements are contractual provisions which provide for payments to a contractor upon successful completion of specific performance events not involving physical deliveries to the Government. As milestone arrangements are interim payments with respect to total contract performance, they are fully recoverable, in the same manner as progress payments, in the event of default. Milestone payments shall not be considered as payments for contract items delivered and accepted, incentive price revisions, or inspection and acceptance provisions of the contract. Milestone billing arrangements are contract financing payments and as such are not subject to prompt payment interest penalties.

1832.7002 Policy.

In negotiating milestone billing arrangements, contracting officers must seek to establish an overall level of contract financing that will result in the contractor maintaining an appropriate investment in contract work-in-process inventory. The level of contract financing should be based on the number, value and timing of the milestone billing events, and the manner in which milestone payments are liquidated against contract line item deliveries. Therefore, proposed milestone billing arrangements should be carefully evaluated to ensure that contract financing objectives are being met, that the proposed milestone billing arrangement will not result in an unreasonably low or negative level of contractor work-in-process inventory, or create an administrative burden (e.g., too frequent payments).

1832.7003 Criteria for use.

(a) Milestone billing arrangements are limited to fixed-price type contracts in excess of \$10 million with long lead times (at least 12 months) between the initial incurrence of costs under

the contract and the delivery of the first end item.

(b) The contract shall not provide for progress payments based on cost or advance payments, with the exception of expendable launch vehicle (ELV) services contracts (see 1832.7003(d)).

(c) The established milestone events will be readily determinable.

(d) Milestone billing amounts shall not exceed the Government's best estimate of the cost to perform each milestone event. For ELV services contracts, 42 U.S.C. 2459c provides authority to make advance payments in conjunction with milestone billing arrangements. Advance payments provided under such arrangements must be reasonably related to launch vehicle and related equipment, fabrication, and acquisition costs. However 42 U.S.C. 2459c provides considerable flexibility in determining what types of costs (committed, incurred, expended) may be considered in determining payment schedules for ELV services contracts. Individual milestone payments may exceed a contractor's incurred costs during performance only if the payment schedules comply with the intent of 42 U.S.C. 2459c, are considered fair and reasonable, and serve the Government's best interests.

(e) The contract milestones should represent the completion of substantial items of service or events that would normally require management visibility and attention to assure their timely accomplishment. Milestones should not be based on insignificant events, administrative functions, percentage of completion estimates, or the passage of time. The number of milestone events will be kept to a minimum.

1832.7004 Contractual implementation.

Contracts containing milestone billing arrangements will include the following requirements:

(a) Normally, milestone billings will not be submitted after deliveries of a major end item commences upon which milestone payments have been made. In the event the period between delivery of such major end item and the next end item delivery exceeds three

months, milestone payments can continue to be made for the next end item as mutually agreed for appropriate events.

(b) Completion of each milestone must be certified by the contractor and verified by the contract administration office in order for payment to be made.

(c) The processing of milestone billing vouchers shall not be delegated outside NASA without specific instructions from the contracting officer, and the periodic review of payments by the contracting officer, e.g., reviews of action taken on issues that have arisen.

(d) The relationship between milestone billing events and deliverable contract line items will be clearly established in the contract. A milestone billing event should normally be associated with only one contract line item. However, a contract line item may have more than one related milestone billing event. Upon delivery and acceptance of a contract line item on which milestone payment(s) has/have been made, the amount of the related milestone payment(s) will be deducted from the amount otherwise payable for the contract line item.

(e) Milestone billing amounts will not be subject to the "Adjusting Billing Prices" paragraph of the "Incentive Price Revision-Firm Target clause (FAR 52.216-16(f)) in fixed-price incentive contracts, and will not be adjusted for actual costs incurred above or below the contract target cost. Adjustments to milestone billing amounts shall not be made unless specifically provided for in the economic price adjustment (EPA) clause of the contract. Furthermore, any adjustment to milestone amounts arising from an EPA clause shall be made at the same time as the contract price adjustment.

(f) Milestone payments are interim payments with respect to total performance, and, as such, are fully recoverable in the case of default, in the same manner as progress payments.

1832.7005 Concurrence prior to solicitation.

Prior to the issuance of a solicitation in which a milestone billing arrangement is made available, concurrence shall be requested in writing from Code HC. The request shall provide the rea-

sons why a milestone billing arrangement is appropriate and include a copy of the milestone billing arrangement clause if it differs from the clause at 1852.232-83, Milestone Billing Arrangements.

1832.7006 Approval prior to contract award.

Subsequent to solicitation, but prior to contract award, a request for approval of the milestone billing arrangement shall be submitted to the Associate Administrator for Procurement (Code HC). The request for approval should include the following information:

(a) The name and phone number of the contracting officer.

(b) A copy of the contractor's support for a milestone billing arrangement, including the rationale and statement of need for milestone billings.

(c) A copy of the proposed milestone billing clause.

(d) Description of the milestone billing events, with a schedule of milestone completion dates and milestone values, and the method of verifying completion.

(e) Description of the contract end items with their delivery schedule and prices.

(f) Proposed milestones and contract end items, with appropriate narrative showing how the milestone amounts were estimated and distributed to the contract end items for interim milestone payment and end item final payment purposes.

(g) Financial analysis (numeric and graphic) showing cash flow and contractor investment in the contractor work-in-process inventory, with and without milestone billings.

(h) Any other information considered relevant.

1832.7007 Subcontracts and contract amendments.

Subcontracts and amendments to prime contracts that incorporate milestone billing arrangements are also subject to the criteria, contractual implementation, concurrence and approval policies in this subpart. Requests for concurrence and approval shall be submitted to the prime contractor through the next higher tier

subcontractor, if applicable, to the contracting officer.

1832.7008 Solicitation and contract clause.

(a) The contracting officer shall insert a clause substantially the same as the clause at 1852.232–83, Milestone Billing Arrangements, in solicitations and contracts when a fixed-price type contract will be awarded and a milestone billing arrangement is contemplated.

(b) The contracting officer shall include a clause substantially the same as the clause at 1852.232–84, Milestone Billing Arrangements—Subcontracts, in all solicitations and contracts when a fixed-price subcontract in excess of \$10 million with a milestone billing arrangement is contemplated.

PART 1833—PROTESTS, DISPUTES, AND APPEALS

Subpart 1833.1—Protests

- 1833.103 Protests to the agency.
- 1833.104 Protests to GAO.
- 1833.105 Protests to GSBGA.

Subpart 1833.2—Disputes and Appeals

- 1833.209 Suspected fraudulent claims.
- 1833.211 Contracting officer's decision.
- 1833.211–70 Contracts awarded before March 1, 1979.
- 1833.215 Contract clause.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 54 FR 28289, July 5, 1989, unless otherwise noted.

Subpart 1833.1—Protests

1833.103 Protests to the agency.

(a) When a protest is filed directly with an installation, any determination under (FAR) 48 CFR 33.103(a) to award the contract before the protest is resolved will be made by the contracting officer. If the protest is filed with NASA Headquarters, any such determination will be made by the Associate Administrator for Procurement.

(b) When a protest is filed directly with an installation or with NASA Headquarters, the contracting officer shall provide any notice under FAR 33.103(a)(3) to offerors whose offers might become eligible for award.

(c) For protests filed with NASA Headquarters, the contracting officer shall forward to the Programs Operations Division (Code HS) within 10 work days a report essentially the same as that required by FAR 33.104(a)(3).

[54 FR 28289, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 59 FR 66270, Dec. 23, 1994; 60 FR 40515, Aug. 9, 1995]

1833.104 Protests to GAO.

(a) *General procedures.* (1) NASA personnel shall take no action to respond to or resolve any protest filed with GAO other than in accordance with this part.

(2) The notices required by FAR 33.104(a)(2) shall be made by the contracting officer.

(3) Upon receiving any communication from a protester or the GAO regarding a protest, the cognizant procurement officer shall immediately contact Code HS for guidance. Conversely, upon Headquarters receipt of notice from GAO of the filing of a protest, Code HS shall immediately notify the cognizant procurement officer. This is usually done via telephone and constitutes the official notice to the installation that a protest has been filed.

(4) Within 3 work days of being notified, the contracting officer shall forward to Headquarters (Code HS) a copy of the procurement file including all documents referred to in FAR 33.104(a)(3)(ii) (A) through (G) and any others requested by Code HS. The contracting officer's statement (FAR 33.104(a)(3)(ii)(H)) shall be forwarded no later than ten work days after the contracting officer has been notified. The contracting officer's statement shall receive the concurrence of the installation Chief Counsel. If more time is needed, requests for extension may be made by telephone to Headquarters, Code HS.

(5) When the GAO elects to use its express option procedure, the contracting officer's statement shall be forwarded to Code HS within six work days after the contracting officer has been notified. If that is not possible, a report to Code HS shall be made by telephone.

(6) In consultation with the Office of General Counsel, Headquarters (Code

HS) shall provide the information required by FAR 33.104(a) to the GAO.

(b) *Protests before award.* (1) The contracting officer shall provide Headquarters (Code HS) with information and recommendations relevant to a determination under FAR 33.104(b)(1) to award a contract prior to resolution of a protest. Any such determination shall be made by the Associate Administrator for Procurement, who for purposes of this requirement is the “head of the contracting activity.” The notification to GAO required by FAR 33.104(b)(2) will be made by Code HS.

(2) The contracting officer shall make the notifications and requests required by FAR 33.104(b)(3).

(c) *Protests after award.* (1) Any request for a determination under FAR 33.104(c)(2) to authorize performance notwithstanding a protest shall be submitted to Headquarters (Code HS). Any such determination shall be made by the Associate Administrator for Procurement who, for purposes of this requirement, is the “head of the contracting activity.” The notification to GAO required by FAR 33.104(c)(3) shall be made by Code HS.

(2) Under FAR 33.104(c)(4), the contracting officer shall consult with Headquarters (Code HP) before terminating a protested contract. If FAR 33.104(c)(5) applies, the contracting officer shall consult with Code HP before taking any action.

(d) *Document requests.* If the protester in its protest statement or later in the process requests documents, the contracting officer shall forward them to Code HS with the documents required by FAR 33.104(a)(3), within three work days of receipt of the request. Concurrently, the contracting officer shall within 1 work day provide copies of the protest statement, the document request if separate from the protest statement, and the requested documents to the installation Chief Counsel who will prepare a proposed response on the release of the documents. This proposed response will be provided to the contracting officer with copies to Headquarters (Code HS) and the Associate General Counsel for Contracts (Code GK) suitable for incorporation into the Administrative Report.

(e) *Conferences.* Representatives from Code HS and Code GK, and those installation representatives designated by Code HS or requested by the GAO will attend conferences held in accordance with FAR 33.104(e).

[54 FR 28289, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 60 FR 40515, 40516, Aug. 9, 1995]

1833.105 Protests to GSBCA.

(a) The installation’s Office of Chief Counsel shall, in consultation with the Associate General Counsel for Contracts, (Code GK) and the Associate Administrator for Procurement, represent the agency in protests filed with the GSBCA. The cognizant Chief Counsel is responsible for taking or otherwise ensuring the taking of all actions required by FAR 33.105 and the GSBCA Rules of Procedure.

(b) Upon receiving notice from a non-NASA source of a protest filed with the GSBCA, the receiving office shall immediately notify the cognizant Chief Counsel, who shall further notify the Associate Administrator for Procurement (Code H), the Associate General Counsel for Contracts (Code GK), and the procurement officer.

(c) The contracting officer is responsible for preparing the protest file required by FAR 33.105(b) and otherwise assisting counsel.

(d) The determination and findings required by FAR 33.105(d)(2) shall be:

(1) Prepared and executed by the director or assistant director of the cognizant technical directorate, the cognizant program/project manager, or cognizant staff official reporting directly to the head of the installation and

(2) Forwarded to the Associate Administrator for Procurement (Code H) for concurrence.

Subpart 1833.2—Disputes and Appeals

1833.209 Suspected fraudulent claims.

The contracting officer shall report suspected fraudulent claims to the Office of Inspector General (Code W) and the Office of General Counsel (Code G).

1833.211 Contracting officer's decision.

The Armed Services Board of Contract Appeals is the NASA Administrator's authorized representative for hearing and determining disputes arising under or related to NASA contracts. Accordingly, when final decision letters are prepared, contracting officers shall alter the paragraph at FAR 33.211(a)(4)(v) to include the following:

(a) The Board's mailing address: Armed Services Board of Contract Appeals, Skyline Six, 5109 Leesburg Pike, Falls Church, VA 22041-3208.

(b) A notification that the Board's operating procedures appear in part 48, Code of Federal Regulations, chapter 2, appendix A.

[58 FR 44462, Aug. 23, 1993]

1833.211-70 Contracts awarded before March 1, 1979.

Under contracts awarded before the effective date of the Contract Disputes Act of 1978 (March 1, 1979), the contractor may elect to proceed either under the Act or under the Disputes clause in the contract. Final decision letters regarding disputes under contracts awarded before that date shall be prepared in accordance with FAR 33.211(a)(4) except that contracting officers shall alter the paragraph at FAR 33.211(a)(4)(v) to read as follows:

This is the final decision of the contracting officer. Since your contract was awarded before the effective date of the Contract Disputes Act of 1978 (March 1, 1979), you may appeal this decision by following the procedures of either the Disputes clause at Federal Acquisition Regulation (FAR) 52.233-1, or the Disputes clause (dated September 1962) in your contract. If you decide to appeal under FAR 52.233-1, you must, within 90 days from the date you receive this decision, mail or otherwise furnish written notice to the Armed Services Board of Contract Appeals,

Skyline Six, 5109 Leesburg Pike, Falls Church, VA 22041-3208, and provide a copy to the contracting officer from whose decision the appeal is taken. The notice shall indicate that an appeal is intended, reference this decision, and identify the contract by number. For appeals under this clause, you may elect to proceed under the Board's small claims procedure (for claims of \$10,000 or less) or its accelerated procedure (for claims of \$50,000 or less). In lieu of appealing to the Board, you may bring an action directly in the U.S. Claims Court within 12 months of the date you receive this decision.

If you elect to appeal under the Disputes clause (dated September 1962) of your contract, you must, within 30 days from the date you receive this decision, mail or otherwise furnish to the contracting officer a written appeal or notice addressed to the Armed Services Board of Contract Appeals. The appeal or notice shall indicate that an appeal is intended, reference this decision, and identify the contract by number. For appeals under this clause, you may elect to proceed under the Board's optional accelerated procedure (for claims of \$25,000 or less).

For additional information, see the procedures of the Armed Services Board of Contract Appeals, which appear in part 48, Code of Federal Regulations, chapter 2, appendix A.

[58 FR 44462, Aug. 23, 1993]

1833.215 Contract clause.

The contracting officer shall use Alternate I the clause at FAR 52.233-1, Disputes, whenever continued performance is vital to national security, the public health and welfare, important agency programs, or other essential supplies or services whose timely procurement from other sources would be impracticable.

[54 FR 28289, July 5, 1989. Redesignated at 57 FR 58720, Dec. 11, 1992]

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING**PART 1834—MAJOR SYSTEM ACQUISITION**

Sec.

1834.000 Scope.

1834.001 Definitions.

1834.005-1 Competition.

1834.005-170 Contract clauses.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 58 FR 58792, Nov. 4, 1993, unless otherwise noted.

1834.000 Scope.

NASA's implementation of OMB Circular No. A-109, Major Systems Acquisitions, and (FAR) 48 CFR part 34 is contained in this part, subpart 18-70.5, and in NASA Management Instruction (NMI) 7120.4, "Management of Major System Programs and Projects," and NASA Handbook (NHB) 7120.5, "Management of Major System Programs and Projects Handbook. This part addresses the procedures for the competitive acquisition of major systems. Subpart 1870.5 incorporates the NASA Major System Acquisition Phased Procurement Guidance.

[58 FR 58792, Nov. 4, 1993, as amended at 59 FR 10080, Mar. 3, 1994]

1834.001 Definitions.

(a) *Down-selection.* In a phased procurement, the process of selecting contractors for phases subsequent to the initial phase from among the preceding phase contractors.

(b) *Major system.* Any system that: Is directed at and critical to fulfilling an agency mission; entails the allocation of a relatively large amount of resources; or warrants special management attention. Designation of a system as "major" is made in accordance with NMI 7120.4, "Management of Major System Programs and Projects," and NHB 7120.5, "Management of Major System Programs and Projects Handbook."

(c) *Phased procurement.* A program comprised of several distinct steps or phases (e.g., preliminary analysis, definition, design, and development) where the realization of program objectives requires a planned, sequential acquisition of each step or phase. The phases

in a phased procurement may be acquired separately, in combination, or through a down-selection strategy.

(d) *Progressive competition.* A type of down-selection strategy for a phased procurement. In this method, a single solicitation is issued for all phases of the program. The initial phase contracts are awarded, and the contractors for subsequent phases are expected to be chosen through a down-selection from among the preceding phase contractors. In each phase, progressively fewer contracts are awarded until a single contractor is chosen for the final phase. Normally, all down-selections are accomplished without issuance of a new, formal solicitation.

[58 FR 58792, Nov. 4, 1993, as amended at 59 FR 10080, Mar. 3, 1994]

1834.005-1 Competition.

(a) In procurements subject to the provisions of OMB Circular No. A-109 and NMI 7120.4 and NHB 7120.5, or other similar phased procurements, it is NASA policy to ensure competition in the selection of contractors for award in each phase of the process not performed in-house.

(b) There are five phases in the life cycle of a NASA major system acquisition:

(1) Phase A, Preliminary Analysis, involves the analysis of alternate overall project concepts for accomplishing a proposed agency technical objective or mission.

(2) Phase B, Definition, involves the detailed study, comparative analysis, and preliminary system design of selected Phase A concepts.

(3) Phase C, Design, involves the detailed system design (with mock-ups and test articles of critical systems and subsystems) of the systems design concept determined to provide the best overall system for the Government.

(4) Phase D, Development, involves final detailed design, fabrication, certification, and delivery of an operational system that meets program requirements.

(5) Phase E, Operations, involves operation and use of the system in its intended environment, continuing until the system leaves the agency inventory. This phase includes any system modifications and upgrades.

(c) The preferred approach in NASA for the acquisition of the phases of a Major System is the following:

(1) Phase A is accomplished primarily through in-house studies.

(2) Phases B, C, and D are acquired through a phased procurement process in which two or more Phase B contracts are awarded competitively and then a down-selection is made among these contractors to determine the single combined Phase C/D awardee.

(3) Phase E is normally acquired separately.

(d) Each phase of a major system acquisition not performed in-house must be synopsized in accordance with FAR 5.201 and must include all the information required by FAR 5.207. When the phased procurement process identified in 1834.005(c)(2) is used, the synopsis for the initial competitive phase, normally Phase B, should also state the following:

(1) The Government plans to conduct a phased procurement involving a competitive down-selection process. (Include a description of the process and the phases involved).

(2) Subsequent competitions for identified follow-on phases will build on the results of previous phases.

(3) The award criteria for subsequent phases will include demonstrated completion of specified previous phase requirements.

(4) The Government expects that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s). Proposals for the subsequent phase(s) will be automatically requested from these contractors.

(5) The Government intends to issue (or not issue) a new, formal solicitation(s) for subsequent phase(s). (If new solicitations are not planned, the acquisition must be identified as a "progressive competition" (see 1834.001(d), and the mechanism for providing pertinent subsequent phase proposal information (e.g., statements of work, specifications, proposal preparation instruc-

tions, and evaluation factors for award) must be described).

(6) Each subsequent phase of the acquisition will be synopsized in the CBD.

(7) Notwithstanding the expectation that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s), proposals from all responsible sources submitted by the specified due date will be considered by the agency. In order to contend for subsequent phase awards, however, such prospective offerors must demonstrate a design maturity equivalent to that of the prior phase contractors. Failure to fully and completely demonstrate the appropriate level of design maturity may render the proposal unacceptable with no further consideration for contract award.

(e) In addition to the information in 1834.005-1(d), the synopsis for the subsequent phases, normally a combined C/D, must identify the current phase contractors.

(f) To streamline the major system acquisition process, the preferred approach for NASA phased procurements is the "progressive competition" down-selection technique in which new, formal solicitations are not issued for phases subsequent to the initial phase. Subsequent phase proposals are requested by less formal means, normally by a letter accompanied by the appropriate proposal preparation and evaluation information.

(g) When using the progressive competition technique, if a prospective offeror other than one of the preceding phase contractors responds to the synopsis for a subsequent phase and indicates an intention to submit a proposal, the contracting officer shall provide to that offeror all the material furnished to the preceding phase contractors necessary to submit a proposal. This information includes the preceding phase solicitation, contracts, and system performance and design requirements, as well as all proposal preparation instructions and evaluation factors. In addition, the prospective offerors must be advised of all requirements necessary for demonstration of a design maturity equivalent to that to the preceding phase contractors.

(h) Although a key feature of the progressive competition technique is that a formal solicitation is issued for the initial phase only, a new, formal solicitation may nonetheless be required for subsequent phases. When the Government requirements or evaluation procedures change so significantly after release of the initial phase solicitation that a substantial portion of the information provided in the initial phase synopsis, solicitation, or contracts is invalidated, a new solicitation shall be issued for the next phase.

(i) Whether or not down-selection procedures are used, contracts awarded in phased procurements shall not include requirements for submission of subsequent phase proposals. Instead, proposals shall be requested through a solicitation or other appropriate mechanism (e.g., by letter when using the progressive competition technique). Priced options for preparation of subsequent phase proposals are prohibited.

(j) With one exception, both the initial and subsequent phase(s) of a major system acquisition down-selection process are considered to be full and open competition if the procedures in paragraphs (d) through (i) of this subpart are followed. If only one contractor successfully completed a given phase and no other offers are solicited for the subsequent phase, award of the subsequent phase may be made only if justified by one of the exceptions in FAR 6.302 or one of the exclusions in FAR 6.2, and only after compliance with the synopsis requirements of FAR 5.202 and 5.205, when appropriate.

(k) Time gaps between phases should be minimized in all major system phased procurements. Accordingly, early synopsis of subsequent phase competition is encouraged. Also, when sufficient programmatic and technical information is available to all potential offerors, proposal evaluation and source selection activities need not be delayed until completion of a given phase. When appropriate, these activities should commence as early as practicable during the period of performance of a phase to ensure the expeditious award of the succeeding phase.

[58 FR 58792, Nov. 4, 1993; 58 FR 68687, Dec. 28, 1993, as amended at 59 FR 10080, Mar. 3, 1994; 60 FR 47713, Sept. 14, 1995]

1834.005–170 Contract clauses.

(a) The contracting officer shall insert the clause at 1852.234–70, Phased Procurement Using Down-Selection Procedures, in solicitations and contracts for phased procurements using down-selection procedures other than the progressive competition technique described in 1834.005–1 (f) through (h). The clause shall be included in the solicitation for each phase and in all contracts except that for the final phase.

(b) The contracting officer shall insert the clause at 1852.234–71, Phased Procurement Using Progressive Competition Down-Selection Procedures, in solicitations and contracts for phased procurements using the progressive competition technique described in 1834.005–1 (f) through (h). The clause shall be included in the initial phase solicitation and all contracts except that for the final phase.

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

Sec.

1835.003 Policy.

1835.004 Publicizing requirements and expanding research and development sources.

1835.014 Government property and title.

1835.015 Contracts for research with educational institutions and nonprofit organizations.

1835.016 Broad agency announcements.

1835.016–70 NASA Research Announcements.

1835.070 NASA contract clauses and solicitation provision.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 54 FR 28291, July 5, 1989, unless otherwise noted.

1835.003 Policy.

See NHB 5800.1, NASA Grant and Cooperative Agreement Handbook, for policy regarding the use of grants and cooperative agreements.

[61 FR 5314, Feb. 12, 1996]

1835.004 Publicizing requirements and expanding research and development sources. (NASA supplements paragraph (a))

(a) In R&D acquisitions over \$100,000, when only three or fewer sources are known, the contracting officer shall have the requirements office query the

Defense Technical Information Center (DTIC) IR&D Database to identify additional sources conducting IR&D in the area of the acquisition, in addition to using other market survey techniques. If needed, specific information on access to and use of the DTIC IR&D Database by a particular NASA installation may be obtained from that installation's designated IR&D focal point.

[61 FR 47081, Sept. 6, 1996]

1835.014 Government property and title.

For items having an acquisition cost of more than \$5,000, the determination at FAR 35.014(b)(2)(iii) that vesting title in the contractor would not further the objectives of NASA's research program must be approved at a level higher than the contracting officer.

1835.015 Contracts for research with educational institutions and non-profit organizations.

(a) In addition to the requirements of FAR 35.015(a)(1)(iv), the institution must obtain the contracting officer's approval when it plans to continue the research work during a continuous period in excess of three months without the participation of an approved principal investigator or project leader.

(b) For policy regarding advance payments under contracts with educational institutions, see subpart 1832.4.

[54 FR 28291, July 5, 1989, as amended at 60 FR 40516, Aug. 9, 1995]

1835.016 Broad agency announcements.

(a) The following forms of broad agency announcements are authorized for use:

(1) Announcements of Opportunity, described in subpart 1870.1, NASA Acquisition of Investigations System.

(2) NASA Research Announcements, described in 1835.016–70.

(3) Other forms of announcements approved by the Associate Administrator for Procurement.

(b) Broad agency announcements may not preclude the participation of any offeror capable of satisfying the Government's needs unless a justification for other than full and open com-

petition is approved under FAR 6.304 (see FAR 6.102(d)(2) and 35.001).

(c) Other program announcements, notices, and letters not authorized by paragraph (a) of this section shall not be used to solicit proposals that may result in contracts.

1835.016–70 NASA Research Announcements.

(a) *Scope.* This subsection 1835.016–70 prescribes regulations and procedures for the use of a NASA Research Announcement (NRA), a form of broad agency announcement (see FAR 6.102(d)(2)). An NRA is used to announce research interests and, after peer or scientific review using factors in the NRA, select proposals for funding. Unlike an RFP containing a statement of work or specification to which offerors are to respond, an NRA provides for the submission of competitive project ideas, conceived by the offerors, in one or more program areas of interest to NASA. The NRA is intended to be used for those research procurements for which it would be impossible to draft an adequate RFP in sufficient detail without restraining the technical response and thus hindering the competition of ideas. An NRA shall not be used in place of an RFP when the procurement requirement is narrowly defined and it is necessary to use a detailed description or specification.

(b) *Issuance.* (1) Each NRA shall be assigned a unique number in accordance with 1804.7102–1.

(2) NRAs may remain open for proposal submission for a maximum of one year. They may not be amended or modified once issued, but may be reissued by assigning a new number and resynopsizing. (See also paragraph (g) of this section.) NRAs should remain open for at least 90 days.

(3) Before issuance, each field-generated NRA shall be concurred in by the procurement officer and approved by the installation's director or a designee, who shall serve as or designate a selecting official. Before issuance, each Headquarters-generated NRA shall be concurred in by General Counsel (Code GK) and the Director, Headquarters

Acquisition Division (Code HW) and approved by the cognizant Program Associate Administrator or a designee, who shall serve as or designate a selecting official. If a Headquarters-generated NRA may result in awards by a NASA field installation, the concurrence of that installation's procurement officer may be sought in place of or in addition to Code HW's concurrence.

(4) The contracting officer shall assure that the NRA is synopsisized in the Commerce Business Daily (CBD). The synopsis required by FAR 35.016(c) satisfies the synopsis requirement at FAR 5.201; the synopsis contemplated by FAR 5.205 is not required. The synopsis shall be brief and provide the address for obtaining a copy of the NRA. The technical part of the synopsis is to describe an area of interest and should not exceed 50 words.

(5) The NRA shall be prepared, printed, and distributed by or under the direction of the selecting official. Distribution shall not begin until the concurrence of the procurement officer has been obtained and the contracting officer has confirmed that the synopsis requirements have been met. The NRA shall be distributed to each office responsible for receipt of unsolicited proposals and to the Office of Procurement (Code HS).

(c) *Content.* The NRA shall consist of the following items in the order shown. This entire package shall be provided in response to requests.

(1) *Cover.* The cover shall display:

(i) "OMB Approval Number 2700-0087" in the upper right corner.

(ii) Title (centered, in uppercase).

(iii) "NASA Research Announcement Soliciting Research Proposals for the Period Ending _____" (centered, on three lines, two inches below the title; insert closing date).

(iv) NRA number (centered, two inches below closing date).

(v) Official address for office issuing NRA (centered, at bottom of cover).

(2) *Summary and Supplemental Information.*

(i) The Summary and Supplemental Information shall not exceed two pages and shall include:

(A) Title (centered, in uppercase).

(B) Introductory paragraphs describing the purpose of the NRA and the pe-

riod for receipt of proposals. When proposals received during this period may be grouped for evaluation at separate times, the introductory paragraphs shall indicate when evaluations are planned and shall include the following remark:

A proposal that is scientifically and programmatically meritorious, but that cannot be accepted during its initial review under an NRA because of funding uncertainties, may be included in subsequent reviews unless the offeror requests otherwise.

(C) NRA number.

(D) Address for submitting proposals, including "ATTN: NRA _____." (Insert NRA number.)

(E) Copies required.

(F) Selecting official's title.

(G) Name, address, and telephone number for additional technical information.

(H) Name and telephone number of contracting office point of contact for administrative and contractual information.

(I) Additional instructions supplementing the Instructions for Responding to NASA Research Announcements for Solicited Research Proposals (see subpart 1870.2). Such information shall be kept to the minimum necessary and shall cite specific "Instructions" paragraphs supplemented.

(J) When awards will be chargeable to funds of the new fiscal year and the NRA is to be issued before funds are available, the NRA shall contain a statement as follows:

Funds are not presently available for awards under this NRA. The Government's obligation to make awards is contingent upon the availability of appropriated funds from which payment can be made and the receipt of proposals that NASA determines are acceptable for award under this NRA.

(ii) The Summary and Supplemental Information may include estimates of the amount of funds that will be available and the number of anticipated awards. A breakdown of the estimates by research area may also be shown.

(iii) The Summary and Supplemental Information may indicate that proposals submitted under an earlier NRA and held for subsequent reviews will be considered and need not be resubmitted. The earlier NRA shall be identified by number in the following statement:

Proposals for which no selection decision was made under NRA _____ and held for subsequent reviews will be considered under this NRA and need not be resubmitted. (Insert NRA number).

(3) *Technical Description.* The first page shall contain the NRA number and title at the top. A brief description not exceeding two pages is preferable, but it should be detailed enough to enable ready comprehension of the research areas of interest. Specifications containing detailed statements of work should be avoided. Any program management information included must be limited to matters that are essential for proposal preparation.

(4) *Instructions for Responding to NASA Research Announcements.* The NRA shall contain instructions in accordance with 1870.203.

(d) *Unsolicited proposals.* (1) Unsolicited proposals for new efforts that are within the scope of an open NRA shall be evaluated in accordance with 1815.506(b).

(2) Unsolicited proposals for renewal of ongoing efforts that are within the scope of an open NRA shall be evaluated in accordance with 1815.505-70.

(3) A broad agency announcement is not an "acquisition requirement" as the term is used in FAR 15.507(a)(2).

(e) *Receipt of proposals, evaluation, and selection.* (1) Proposals shall be protected as provided in 1815.508-70 and 1815.509-70.

(2) Evaluation, selection, and award may occur during or after the period established for receipt of proposals. Late proposals and modifications shall be treated in accordance with 1815.412(a) and (b).

(3) When more than one time is established in the NRA for evaluating proposals, proposals received prior to the time established will be considered as part of the initial group to be evaluated. Subsequent groups of proposals to be evaluated shall be formed from those proposals received after the time established for the earlier evaluation groups and prior to the time established for a subsequent group, along with those proposals, if any, held over under paragraph (e)(8) of this section.

(4) The selection decision shall be made following peer or scientific review of a proposal. Peer or scientific

review shall involve (i) evaluation, outside NASA, by a discipline specialist in the area of the proposal, (ii) evaluation by an in-house specialist, or (iii) both. Evaluation by specialists outside NASA shall be conducted subject to the conditions in FAR 15.413-2(f) and NFS 1815.413 and 1815.413-2. In particular, the selecting official shall ensure compliance with FAR 15.413-2(f)(5) regarding the designation of outside evaluators and avoidance of conflicts of interest. After receipt of a proposal and before selection, scientific or engineering personnel shall communicate with an offeror, regarding the proposal, only for the purpose of clarification, as defined in FAR 15.601, or in order to understand the meaning of some aspect of the proposal that is not clear, or in order to obtain confirmation or substantiation of a proposed approach, solution, or cost estimate.

(5) Competitive range determinations shall not be made, and best and final offers shall not be requested.

(6) Part of a proposal may be selected unless the offeror requests otherwise. In addition, changes to a selected proposal may be sought if (i) the ideas or other aspects of the proposal on which selection is based are contained in the proposal as originally submitted, and are not introduced by the changes; and (ii) the changes sought would not involve a material alteration to the requirements stated in the NRA. Changes that would affect a proposal's selection shall not be sought. When changes are desired, they may be described to the contracting officer under paragraph (e)(10)(ii) of this section, or the selecting official may request revisions from the offeror. The changes shall not transfer information from one offeror's proposal to another offeror (see FAR 15.610(d)(2)). When collaboration between offerors would improve proposed research programs, collaboration may be suggested to the offerors.

(7) The basis for selection of a proposal shall be documented in a selection statement applying the evaluation factors in the NRA. The selection statement represents the conclusions of the selecting official and must be self-contained. It shall not incorporate by reference the evaluations of the reviewers.

(8) A proposal that is scientifically and programmatically meritorious, but that is not selected during its initial review under an NRA, may be included in subsequent reviews unless the offeror requests otherwise. If the proposal is not to be held over for subsequent reviews, the offeror shall be notified that the proposal was not selected for award.

(9) The selecting official shall notify each offeror whose proposal was not selected for award and explain generally why the proposal was not selected. If requested, the selecting official shall arrange a debriefing under 1815.1004, with the participation of a contracting officer.

(10) The selecting official shall forward to the contracting officer—

(i) The results of the technical evaluation, including the total number of proposals received under the NRA by the time of selection, the selection statement, and the proposal(s) selected for funding;

(ii) A description of any changes desired in any offeror's statement of work, including the reasons for the changes and any effect on level of funding;

(iii) If a contract will be used to fund the proposal, a description of deliverables, including technical reports, and delivery dates, consistent with the requirements of the NRA;

(iv) A procurement request;

(v) Comments on the offeror's cost proposal (either the selecting official's comments, which may be based on the reviewers' comments, or copies of the reviewers' comments with any different conclusions of the selecting official); these comments shall address the need for and reasonableness of travel, computer time, materials, equipment, subcontracted items, publication costs, labor hours, labor mix, and other costs; and

(vi) A copy of the selected proposal as originally submitted, any revisions, and any correspondence from the successful offeror.

(11) The selecting official may provide to the contracting officer copies of the reviewers' evaluations. Reviewers' names and institutions may be omitted.

(12) The selecting official may notify each offeror whose proposal was selected for negotiation.

(i) The notification shall state that—

(A) The proposal has been selected for negotiation;

(B) The offeror's business office will be contacted by a contracting officer, who is the only official authorized to obligate the Government; and

(C) Any costs incurred by the offeror in anticipation of an award are at the offeror's risk.

(ii) The notification may identify which award instrument has been recommended.

(f) *Award.* If a contract is selected as the award instrument (see FAR 35.003(a) and 1835.003(a)), the contracting officer shall—

(1) Advise the offeror that the Government contemplates entering into negotiations; the type of contract contemplated; and the estimated award date, level of effort, and delivery schedule;

(2) Send the offeror a model contract, if necessary, including modifications contemplated in the offeror's statement of work, and request agreement or identification of any exceptions (the contract statement of work may summarize the proposed research, state that the research shall be conducted in accordance with certain technical sections of the proposal (which shall be identified by incorporating them into the contract by reference), and identify any changes to the proposed research);

(3) Request the offeror to complete and return certifications and representations and Standard Form 33, Solicitation, Offer, and Award, or other appropriate forms;

(4) Conduct negotiations in accordance with FAR subparts 15.8 and 15.9, as applicable;

(5) Award a contract by transmitting written notice of the award; and

(6) Comply with FAR subparts 4.6 and 5.3 on contract reporting and synopses of contract awards.

(g) *Cancellation of an NRA.* When program changes, program funding, or any other reasons require cancellation of an NRA, the office issuing the NRA

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shall notify potential offerors by using the mailing list for the NRA.

[60 FR 40516, Aug. 9, 1995, as amended at 60 FR 47713, Sept. 14, 1995]

1835.070 NASA contract clauses and solicitation provision.

(a) The contracting officer shall insert the clause at 1852.235-70, Center for AeroSpace Information, in all research and development contracts and in cost-reimbursement supply contracts involving research and development work.

(b) The contracting officer shall insert the clause at 1852.235-71, Key Personnel and Facilities, in contracts when source selection has been substantially predicated upon the possession by a given offeror of special capabilities, as represented by key personnel or facilities.

(c) The contracting officer shall insert the provision at 1852.235-72, Plan for New Technology Reporting, in any solicitation for contract estimated to cost \$2,500,000 or more if the contract is also to contain the clause at 1852.227-70, New Technology, unless, in consultation with the installation's New Technology Officer, the contracting officer determines that the provision is not appropriate. The contracting officer may insert the provision in solicitations for any such contract of a lesser dollar amount if deemed appropriate after consultation with the installation's New Technology Officer.

[54 FR 28291, July 5, 1989, as amended at 57 FR 58720, Dec. 11, 1992; 60 FR 40518, Aug. 9, 1995]

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1836.2—Special Aspects of Contracting for Construction

Sec.

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Subpart 1836.7—Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements

1836.702 Forms for use in contracting for architect-engineer services.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 54 FR 28294, July 5, 1989, unless otherwise noted.

Subpart 1836.2—Special Aspects of Contracting for Construction

1836.203 Government estimate of construction costs.

(a) The initiator of the Government estimate shall designate the estimate "For Official Use Only" unless the information in the estimate requires a security classification, in which event it shall be handled in accordance with applicable security regulations.

(b) If the acquisition is by sealed bidding, the contracting officer shall file a sealed copy of the detailed Government estimate with the bids until bid opening. After the bids are read and recorded, the contracting officer shall remove the "For Official Use Only" designation, read the estimate, and record it in the same detail as the bids.

(c) If the acquisition is by negotiation, the contracting officer may disclose cost breakdown figures in the Government estimate during negotiations, but only to the extent necessary for arriving at a fair and reasonable price. However, the contracting officer shall not disclose the overall amount of the Government estimate prior to award. At the time of award, the "For Official Use Only" designation shall be removed. After award, the contracting officer may reveal the Government estimate, upon request, to offerors.

1836.205 Statutory cost limitations.

"Statutory cost limitations" refers to cost limitations that may be included in an agency's annual appropriation act.

1836.209 Construction contracts with architect-engineer firms.

(a) Except as provided in paragraph (c) of this section, contracting officers shall not—

(1) Solicit offers for the construction of a facility from any firm, its subsidiaries, or affiliates furnishing architect-engineer services for that facility; or

(2) Consider unsolicited offers from that firm, its subsidiaries, or affiliates.

(b) An architect-engineer firm selected for negotiation of an architect-engineer services contract under the procedures in 1836.602 shall be advised of the policy in paragraph (a) of this section before initiation of negotiations, if that firm possesses construction capabilities either within its own organization or through subsidiaries or affiliates. The firm shall have the option of either—

(1) Declining to enter into contract negotiations, in order to be eligible to compete for the related construction contract; or

(2) Entering into contract negotiations with the clear understanding that, if such negotiations are successful, the firm, its subsidiaries, and affiliates will be ineligible to compete for the related construction contract.

(c)(1) The policy in FAR 36.209 does not apply when—

(i) The Associate Administrator for Procurement, upon recommendation from Code HS, specifically authorizes, before the initiation of negotiations,

use of a cost-plus-fixed-fee contract for both the design and construction of a facility; or

(ii) A contract:

(A) Is awarded on the basis of performance specifications for the construction of a facility, and

(B) Requires the contractor to furnish construction drawings, specifications, or site adaptation drawings of the facility.

(2) The contracting officer shall prepare requests for authorization pursuant to paragraph (b)(1)(i) of this section in sufficient detail to establish the need for procuring both design and construction under one contract. In neither of the excepted cases in paragraph (b)(1) of this section shall the firm that prepared the drawings and specifications be engaged to supervise and inspect, on behalf of the Government, the construction of the facility involved.

Subpart 1836.3—Special Aspects of Sealed Bidding in Construction Contracts

1836.303 Invitations for bids.

1836.303-70 Additive and deductive items.

(a) When it appears that funds available for a project may be insufficient for all the desired features of construction, the contracting officer may provide in the invitation for bids for (1) a first or base bid item covering the work generally as specified and (2) one or more additive or deductive bid items progressively adding or omitting specified features of the work in a stated order of priority. In such case, the low bidder and the items to be awarded shall be determined as described in the provision at 1852.236-71, Additive or Deductive Items.

(b) The contracting officer, before the opening of bids, shall determine and record in the contract file the amount of funds available for the project. This amount shall be controlling for determining the low bidder, but may be increased for determining the items to be awarded, provided that award on the combination of items does not exceed the amount offered by any other conforming responsible bidder for the same combination of items.

1836.304 Notice of award.

Contract delivery or performance schedules, commencement of work, or notices to proceed shall not be expressed in terms of a notice of award. See NFS 1812.103. Also, see NFS 1814.408–1(f) for notice of award content and format.

[58 FR 51141, Sept. 30, 1993, as amended at 60 FR 47713, Sept. 14, 1995]

1836.370 Solicitation provisions.

(a) The contracting officer shall insert the provision at 1852.236–71, Additive or Deductive Items, in invitations for bids for construction when it is desired to add or deduct bid items to meet available funding.

(b) The contracting officer shall insert the provision at 1852.236–72, Bids with Unit Prices, in invitations for bids for construction when the invitation contemplates unit prices of items.

Subpart 1836.5—Contract Clauses**1836.570 NASA contract clause and solicitation provision.****1836.570–1 Hurricane plan.**

The contracting officer shall insert the clause at 1852.236–73, Hurricane Plan, in solicitations and contracts for construction at sites that experience hurricanes.

1836.570–2 Magnitude of requirement.

The contracting officer shall insert the provision at 1852.236–74, Magnitude of Requirement, in solicitations for construction. Insert the appropriate estimated dollar range in accordance with FAR 36.204.

Subpart 1836.6—Architect-Engineer Services**1836.602 Selection of firms for architect-engineer contracts.****1836.602–1 Selection criteria.**

(a) As permitted by FAR 36.602–1(a)(6), in evaluating architect-engineer firms, the architect-engineer selection board shall apply any criteria set forth in the public notice regarding a particular requirement and the volume of work previously awarded to the

firm by NASA, with the object of effecting an equitable distribution of contracts among qualified architect-engineer firms, including minority-owned firms and firms that have not had prior NASA contracts.

(b) It should be noted that the evaluation criteria in paragraph (a) of this section and FAR 36.602–1(a) are not listed in order of importance. The relative weight to be assigned to them may vary with the particular requirements of the individual procurement.

(c) NASA will consider the immediate past 10 years as the period for evaluation under FAR 36.602–1(a) (2) and (4).

1836.602–2 Evaluation boards.

In compliance with 48 CFR (FAR) 36.602–2, the person designated as the selection authority, unless Field Installation Management Instructions designate higher authority, shall establish an architect-engineer selection board to be composed of at least three voting members. Membership shall at least include: one currently registered architect or professional engineer, who shall serve as the board chairperson; an appropriate official from the requiring office; and, an appropriate technical official familiar with any unique subject matter (see 48 CFR (FAR) 36.102, Definitions, “Architect-engineer services”) critical to the requirement. Each board shall include an appropriate procurement official (a contracting officer, if feasible) as an ad hoc advisor to the board and the selection authority. Where appropriate, a procurement official may serve as a voting member on evaluation boards. Appointment of non-Government employees as voting members is not authorized.

[60 FR 16059, Mar. 29, 1995]

1836.602–3 Evaluation board functions.

The report required by FAR 36.602–3(d) should, as a minimum, discuss each criterion for each offeror and explain why one firm is rated higher than the others.

1836.602–4 Selection authority.

The first level manager above the requirement office who is serving in grade GS 16 or above under the General

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Schedule or in a comparable or higher position under another schedule, or otherwise, is designated as the selection authority for purposes of 48 CFR (FAR) 36.602.4.

[60 FR 16060, Mar. 29, 1995]

1836.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

(a) Use of the procedures at 48 CFR (FAR) 36.602-5 (a) or (b) is at the discretion of the selection authority specified in 1836.602-4.

(b) The selection authority specified in 1836.602-4 is designated as the selection authority for purposes of 48 CFR (FAR) 36.602-5(b)(2).

[60 FR 16060, Mar. 29, 1995, as amended at 60 FR 47713, Sept. 14, 1995]

1836.602-70 Selection of architect-engineers for master planning.

(a) *Definition of master plan.* A master plan is an integrated series of documents presenting in graphic, narrative, and tabular form the present composition of the installation and the plan for its orderly and comprehensive development to perform its various missions in the most efficient and economical manner.

(b) *Selection.* (1) Selection of an Architect-Engineer for the development of a master plan in connection with the establishment of a new NASA activity or installation shall be made by the Associate Administrator having institutional responsibility. The report of the architect-engineer selection board will be concurred in at NASA Headquarters by the Associate Administrator for Management Systems and Facilities, the Associate Administrator for Procurement, the Chief Financial Officer (CFO/Comptroller, and the General Counsel.

(2) The Associate Administrator for Management Systems and Facilities shall be responsible for the architect-engineer selection board report required by FAR 36.602-3(d) and necessary revisions required from the reviews in 1836.602-70(b)(1), if any, before presen-

tation to the Associate Administrator having institutional responsibility.

[54 FR 28294, July 5, 1989, as amended at 54 FR 39373, Sept. 26, 1989; 57 FR 40855, Sept. 8, 1992; 60 FR 16060, Mar. 29, 1995]

1836.602-71 Conflict of interest.

(a)(1) All persons participating in an architect-engineer evaluation, review or selection activity shall have a written certification on file in NASA stating knowledge of and compliance with the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch (August 1992) and the NASA Supplement (September 28, 1994) to the Office of Government Ethics's Standard of Ethical Conduct for Employees of the Executive Branch (August 1992). The minimum certification shall be:

Certification

I, the undersigned, hereby certify that I have: (i) read the Office of Government Ethics' Standard of Ethical Conduct for Employees of the Executive Branch (August 1992) and the NASA Supplement (September 28, 1994) to the Office of Government Ethics' Standard of Ethical Conduct for Employees of the Executive Branch (August 1992); (ii) filed the relevant [insert "Standard Form 278" for any employee who's annual salary is 120 percent above step one of grade 15 of the General Schedule (GS) or "Standard Form 450" for employees whose annual salary is at or below step ten of grade 15 of the General Schedule (GS)]; and, (iii) examined the attached list of competitors for the [Title] project before the architect-engineer selection board. I further certify that I have no financial or other personal interest in these firms.

(Signature)

(Date)
(End of certification)

(2) Any person unwilling or unable to make and furnish the required certification shall be disqualified from participating in any architect-engineer selection board activity.

(3) The certification provided pursuant to 1836-602-71(a)(1) shall be on file with the Office of General Counsel (Code GG) for Headquarters persons and with the field installation Chief Counsel for field installation personnel.

(b) Any person signing a certification under 1836.602–71(a)(1) who subsequently acquires a real or apparent conflict of interest hereunder shall immediately cease further activity, report the conflict to the selection board chairperson and withdraw from further participation. Further, such conflicts are to be concurrently reported to the appropriate counsel's office who is responsible for determining whether any employee's acquired conflict necessitates any further action.

(c) Any person associated with these activities who becomes aware of any extraneous influences being brought to bear on participants shall report such to the Office of Inspector General (Code W).

[54 FR 39374, Sept. 26, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 60 FR 16060, Mar. 29, 1995]

1836.603 Collecting data on and appraising firms' qualifications.

The architect-engineer selection boards (see 1836.602–2) are designated as NASA's evaluation boards for the purposes of FAR 36.603.

Subpart 1836.7—Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements

1836.702 Forms for use in contracting for architect-engineer services.

(a) Architect-Engineer Contract (Standard Form 252). Instructions for completing this form are as follows:

(1) *Block 5—Project Title and Location.* Include a short description of the construction project and the estimated cost of constructing the facilities for the project. If the space provided is insufficient, include a more detailed description in the contract's specification/work statement and identify the location of the more detailed description in Block 10.

(2) *Block 6—Contract for (General description of services to be provided).* Include a brief description of the services and state that they are fully set out in the specification/work statement. Clearly specify the date by which de-

sign services must be completed. If supervision and inspection services during construction are to be procured, also clearly specify the date by which they must be completed and add a statement that the Government may extend the period for their performance as provided in the Changes clause of the contract.

(3) *Block 7—Contract Amount.* If the contract is for both design and supervision and inspection services, set out the amounts for each effort separately.

(b) Statement of architect-engineer services accompanying the SF 252. The services to be furnished by an architect-engineer should be carefully defined during negotiation of the contract and a statement of them inserted in the contract's specification/work statement. The statement should clearly and concisely set forth the nature and extent of the services and include any special services, such as the nature and extent of subsurface exploration prior to designing foundations. A similar statement of supervision and inspection services should be inserted in the specification/work statement if supervision and inspection services are to be acquired.

PART 1837—SERVICE CONTRACTING

Subpart 1837.1—Service Contracts—General

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Subpart 1837.70—Procurement of Training

1837.7000 Scope of part.

1837.7001 General.

1837.7001-1 Purpose.

1837.7001-2 Training Act of 1958.

1837.7001-3 Competition in Contracting Act (CICA) of 1984.

1837.7001-4 Procedures.

AUTHORITY: 42 U.S.C. 2473 (c)(1).

SOURCE: 54 FR 28296, July 5, 1989, unless otherwise noted.

Subpart 1837.1—Service Contracts—General**1837.101 Definitions.**

Pension portability means the recognition and continuation in a successor service contract of the predecessor service contract employees' pension rights and benefits.

[59 FR 60917, Nov. 29, 1994]

1837.102 Policy.

(a) To the maximum extent practicable, it is the policy of NASA to acquire services on the basis of the task to be performed rather than on a labor-hour basis.

(b) The use of uncompensated overtime (as defined in the provision at 48 CFR 1852.237-72, Identification of Uncompensated Overtime) is neither encouraged nor discouraged. When the proposed uncompensated overtime is consistent with an offeror's written policies and practices, NASA will consider it in proposal evaluation, including the evaluation of cost and of professional compensation (see 48 CFR (FAR) 22.11). The provision at 48 CFR 1852.237-72 requires offerors to identify uncompensated overtime hours and the effective hourly rate for all Fair Labor Standards Act-exempt personnel included in their proposals and sub-contractor proposals. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct (see 48 CFR 1815.608-72).

[60 FR 16064, Mar. 29, 1995]

1837.104 Personal services contracts.

(a) Under section 203(c)(9) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(9)), NASA is authorized "to obtain services as author-

ized by section 3109 of Title 5, United States Code, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18." 5 U.S.C. 3109, in turn, provides authority to procure by contract "the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services."

(b) It is NASA policy to obtain the personal services of experts and consultants by appointment rather than by contract. The policies, responsibilities, and procedures pertaining to the appointment of experts and consultants are in the NASA Supplement to the Federal Personnel Manual.

1837.105 Competition in service contracting.

(a) See 1837.104 of this subpart regarding negotiation for personal and professional services.

(b) Frequently NASA must contract for services that require immediate performance after minimum prior notice to proceed. Typical of these requirements are contracts for engineering services; maintenance, repair, or overhaul of specialized equipment; and printing or reproduction and data processing services to be furnished on a "call basis" when time is of the essence to meet priority requirements.

(c) The NASA policy of obtaining competition to the maximum practicable extent applies to these types of services. Geographic limitations imposed on prospective contractors are likely to appear arbitrary to the business community and therefore are proper only when demonstrably justifiable. Even when a geographic limitation is justifiable, no firm desiring to compete for the procurement may be denied the opportunity to do so merely because it is located outside the geographic area. Such firms shall be permitted to submit offers, provided they can substantiate their capability to establish a facility in a location that complies with any required geographical limitation.

(d) A preferred method of obtaining services or supplies required on a prompt response basis is by clearly describing in the solicitation the maximum time that may elapse between

placement of the order or call and the delivery date. Such time limitations, when required by the nature of the procurement, will normally meet NASA's needs for prompt delivery without introducing unnecessarily restrictive criteria limiting the competitive field of prospective contractors.

(e) The procurement officer or a designee shall review and approve, prior to distribution, solicitations that contemplate either a geographical-area or time-of-performance limitation.

1837.110 Solicitation provisions and contract clauses.

(a) The contracting officer shall obtain the Associate Administrator for Procurement's (Code HC) approval before using in a solicitation, contract, or negotiated contract modification for additional work any installation-developed clause involving pension portability.

(b) The following provision applies to procurements under which professional and technical services are acquired on the basis of the number of hours to be provided, rather than on the task to be performed.

(1) If the resulting contract is expected to exceed \$500,000, the contracting officer shall insert in the solicitation the provision at 48 CFR 1852.237-72, Identification of Uncompensated Overtime.

(2) If the resulting contract is expected to exceed \$100,000 but not exceed \$500,000, the contracting officer may insert in the solicitation the provisions at 48 CFR 1852.237-72, Identification of Uncompensated Overtime.

[60 FR 16065, Mar. 29, 1995]

1837.110-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.237-70, Emergency Evacuation Procedures, in solicitations and contracts for on-site support services where emergency evacuations of the NASA installation may occur, e.g., snow, hurricanes, tornados, earthquakes, or other emergencies.

1837.170 Pension portability.

(a) It is NASA's policy not to require pension portability in service contracts. However, pension portability requirements may be included in a solicitation, contract, or contract modification for additional work under the following conditions:

(1)(i) There is a continuing need for the same or similar services for a minimum of five years (inclusive of options) and, if and when the contractor changes, a high percentage of the predecessor contractor's employees are expected to remain with the program; or

(ii) Where the employees under a predecessor contract were covered by a portable pension plan, a follow-on contract or a contract consolidating existing services shall include pension portability as long as the total contract period covered by the plan, past and future, covers five years.

(2) Only defined contribution plans, or multiparty defined benefit plans operated under a collective bargaining agreement where the plan follows the employee instead of the employer, shall be permitted in the portability provisions;

(3) Vesting shall be 100 percent at the earlier of one year of continuous employee service or contract termination;

(4) There is a clear description of the plan, including coverage regarding service, pay, liabilities, vesting, termination, and benefits from prior contracts, as appropriate; and

(5) The procurement officer has made a written determination that such a provision is in the Government's best interest, including the facts supporting that determination.

(b) The procurement officer shall maintain a record of all written determinations that the use of pension portability is in the Government's best interest.

[59 FR 60917, Nov. 29, 1994]

Subpart 1837.2—Advisory and Assistance Services

SOURCE: 55 FR 12176, Apr. 2, 1990, unless otherwise noted.

1837.200 Scope of subpart.

This subpart implements and supplements (FAR) 48 CFR part 37, subpart 37.2 and NMI 5104.5, Guidelines for the Use and Approval of Advisory and Assistance Services Obtained by Contract, and establishes procedures to be

followed in contracting for advisory and assistance services.

[59 FR 12198, Mar. 16, 1994]

1837.202 Policy.

1837.202-70 NASA policy.

In addition to the prohibitions regarding advisory and assistance services listed at FAR 37.202(c)—

(a) Contracts for advisory and assistance services shall not be continued longer than five years;

(b) Advisory and assistance services of individual experts and consultants shall normally be obtained by appointment rather than by contract (see NMI 3304.1, Employment of Experts and Consultants);

(c) Task orders for advisory and assistance services issued under the prime contract between the California Institute of Technology and NASA for the operation of the JPL facility must be reviewed and approved in accordance with this subpart 1837.2; and

(d) Persons or organizations providing advisory and assistance services to NASA must be free from conflict of interest as delineated in FAR subpart 9.5, Organizational Conflicts of Interest, and NFS subpart 1809.5. When considering advisory and assistance service arrangements with former Government employees, compliance with NFS 1803.7001 and 18 U.S.C. 207 is required.

1837.202-71 Public inspection.

(a) NASA's annual Appropriations Act states: "Except as otherwise provided under existing law or under an existing Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of

the work to be performed under each such contract."

(b) In accordance with paragraph (a) of this section, on a quarterly basis the Office of Procurement (Code HC) prepares a list for public inspection and distributes it to NASA Information Centers pursuant to NMI 1382.2 (14 CFR 1206), Availability of Agency Records to Members of the Public.

(c) Public inspection of advisory and assistance service contracts and purchase orders at NASA field installations in accordance with the Appropriations Act shall be limited to basic contract documents and modifications. Requests for copies of contracts or other data will be handled in accordance with NMI 1382.2.

[54 FR 28296, July 5, 1989, as amended at 59 FR 66270, Dec. 23, 1994]

1837.204 Guidelines for determining availability of personnel.

(a) The NASA official one level above the NASA program official responsible for the evaluation shall make the determination of non-availability of personnel under FAR 37.204 (a) and (b). For field installations, the concurrence of the Office of Chief Counsel shall be obtained and for Headquarters actions, the concurrence of the Office of Associate General Counsel for Contracts shall be obtained. The contracting officer shall ensure that a copy of the determination is in the procurement file prior to issuance of a solicitation.

(b) Outside peer review evaluators may be used to evaluate SBIR, STTR, NRA, AO, and unsolicited proposals without making the determination required by FAR 37.204.

(c) The agreement required by FAR 37.204(c) shall be made by the program official responsible for the evaluation and the contracting officer.

(d) Class determinations under FAR 37.204(e) shall be made by the Associate Administrator for Procurement. The installation procurement office shall forward its request with an explanation of the necessity for the use of outside evaluators as outlined in FAR 37.204(b) to Code HS.

(e) See (NFS) 48 CFR 1815.413-2 Alternate II, for instructions concerning—

1837.205

(1) The authority to release proposals resulting from RFP's outside the Government and

(2) The requisite nondisclosure statements.

[61 FR 5314, Feb. 12, 1996]

1837.205 Responsibilities/Management controls.

The contracting officer shall include in each contract or purchase order file a copy of:

(a) The contracting officer's determination that a contractual action constitutes advisory and assistance services;

(b) The sponsoring office's Request for Approval to Acquire Advisory and Assistance Services by Contract; and

(c) Authorization by the Associate Administrator for Management Systems and Facilities to commence procurement activities as required by NMI 5104.5, Subparagraph 7—Responsibilities/Management Controls.

[55 FR 47479, Nov. 14, 1990, as amended at 57 FR 40855, Sept. 8, 1992]

1837.205-70 Requests for approval.

(a) When a NASA field installation or headquarters office considers advisory and assistance services necessary and desirable, in accordance with the policy in FAR 37.202 and 1837.202-70, the requiring activity is responsible for preparing the documentation required by NMI 5104.5 and securing the prior approval of the Associate Administrator for Management Systems and Facilities (Code J).

(b) Before processing any procurement action for advisory and assistance services, the contracting officer shall provide advice, as necessary, to the requiring activity on preparing the documentation required by NMI 5104.5 and ensure that this required documentation, including the necessary concurrences/approvals, is included in the official contract or purchase order file. For any proposed requirement, regardless of dollar value, where there is uncertainty as to whether the requirement is for advisory and assistance services, the contracting officer shall make a determination. For those requirements determined to be for advisory and assistance services which

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have not been approved by the Associate Administrator for Management Systems and Facilities (Code J), the contracting officer shall return the procurement request to the originating office for action in accordance with NMI 5104.5. In all such cases, the contracting officer's determination is final.

[55 FR 12176, Apr. 2, 1990, as amended at 57 FR 40855, Sept. 8, 1992]

1837.205-71 Negotiation of contracts.

(a) Contracting Officers shall include in all solicitations for advisory and assistance services a requirement that each offeror furnish the following information with the proposal, regardless of the pricing arrangements anticipated:

(1) The names and qualifications of principal members of the contractor organization who will be responsible for the project.

(2) The title of each official and the number of employees who will participate.

(3) The estimated number of hours that each official and employee will contribute to the proposed project.

(4) The standard billing rate per hour for each official and employee.

(b) In addition, the solicitation and the resulting contract shall require that—

(1) The contractor warrants that the rates quoted are not in excess of those charged nongovernmental clients for the same services performed by the same individuals;

(2) The Government has the right to the working papers used by the participating officials and employees of the firm or organization in connection with the project;

(3) Publication or distribution of the study, data, or related material is prohibited, except to the extent authorized by the contracting officer; and

(4) The contractor agrees that any reports regarding organizational matters (as required by the contract) shall include, when feasible and in addition to the recommendations, alternative methods to be considered and the pros and cons of each alternative.

Subpart 1837.70—Procurement of Training

SOURCE: 57 FR 58720, Dec. 11, 1992, unless otherwise noted.

1837.7000 Scope of part.

This part contains NASA-unique regulations, which have no clearly identifiable FAR counterpart, on the procurement of training.

1837.7001 General.**1837.7001-1 Purpose.**

This subpart provides policy guidance on the appropriate balance between the use of CICA and the Training Act for the procurement of NASA's training requirements.

1837.7001-2 Training Act of 1958.

The Training Act of 1958 (5 U.S.C. 4101 et seq.) may be used for training of NASA employees by, in, or through non-Government off-the-shelf training courses which are available to the public. These include established university catalog courses or commercial course offerings that are offered to the general public at catalog or market prices.

1837.7001-3 Competition in Contracting Act (CICA) of 1984.

The procurement of a new training course that must be developed to fulfill a specific NASA need should be conducted in accordance with CICA under the applicable provisions of the Federal Acquisition Regulation (FAR) and the NASA FAR Supplement (NFS).

1837.7001-4 Procedures.

(a) Installation training and procurement offices are encouraged to collaborate in selecting the type of instrument (see FAR and NFS parts 13 and 16) which is most efficient in effective procurement of training.

(b) Installations should develop internal procedures in consonance with the guidance contained herein.

PART 1839—ACQUISITION OF FEDERAL INFORMATION PROCESSING RESOURCES**Subpart 1839.70—NASA Procedures****Sec.**

1839.7000 Scope of subpart.

1839.7001 Policy.

1839.7002 Applicability.

1839.7003 APRs from installations.

1839.7003-1 Responsibility.

1839.7003-2 FIRMR applicability and procurement authority certification.

1839.7003-3 GSA nonmandatory MAS contracts.

1839.7003-4 APR format.

1839.7003-5 APR submission.

1839.7003-6 DPA amendments.

1839.7004 FIP Resources Decision Document.

1839.7005 Coordination.

1839.7006 DPA transmittal.

1839.7007 Numbering provisions and clauses.

1839.7008 NASA contract clause.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 57 FR 58721, Dec. 11, 1992, unless otherwise noted.

Subpart 1839.70—NASA Procedures**1839.7000 Scope of subpart.**

This subpart prescribes the internal NASA procedures to be used by installations in obtaining General Services Administration (GSA) authorization to contract for Federal information processing (FIP) resources.

1839.7001 Policy.

(a) NASA policies and procedures on the acquisition of FIP resources are prescribed in NASA Handbook (NHB) 2410.1, NASA Information Resources Management Handbook. See NFS 1804.470 regarding NASA policy on automated information security.

(b) The Designated Senior Official (DSO), the Chief Information Officer (Code A), has responsibility and accountability for interpreting, applying, and overseeing the implementation of the Federal Information Resources Management Regulations (FIRMR) (41 CFR chapter 201) within NASA.

[57 FR 58721, Dec. 11, 1992, as amended at 60 FR 40518, Aug. 9, 1995]

1839.7002 Applicability.

This subpart is applicable to all procurements of FIP resources.

1839.7003 APRs from installations.**1839.7003-1 Responsibility.**

The acquisition of FIP resources is a shared responsibility of the requiring activity, the procurement officer, and the information resources management (IRM) organization.

(a) The installation's procurement officer is responsible for ensuring that the following actions are taken:

(1) Required documentation is uniquely identifiable, complete, adequate, severable, and readily available in files controlled by the contracting office.

(2) Timely submission of APRs to Headquarters Code JTD in accordance with 1839.7003-5.

(3) Initiating an APR for a revised DPA if events invalidate the existing DPA or require additional or modified authorization from GSA in accordance with 1839.7003-6.

(b) The contracting officer is responsible for the following actions:

(1) Determining FIRMR applicability in accordance with 1839.7003-2;

(2) Determining whether an APR should be initiated in accordance with 1839.7003-2;

(3) Ensuring that installation prescribed approvals have been obtained to allow initiation of the acquisition; and

(4) Conducting the acquisition in compliance with the DPA. This includes ensuring that solicitations are released, and contracts are executed and performed, consistent with the DPA.

(c) The Senior Installation IRM Official (SIIO) is responsible for formally concurring on all APRs.

[57 FR 58721, Dec. 11, 1992, as amended at 60 FR 40518, Aug. 9, 1995]

1839.7003-2 FIRMR applicability and procurement authority certification.

The contracting officer shall:

(a) Review the requirements and determine how the requirements will be satisfied, if FIP resources will be involved, and the categories and values

of the FIP resources to be acquired or used. Each category of FIP resources (FIP equipment, FIP software, FIP services, FIP support services, and FIP related supplies) must be individually identified as accurately as possible (see FIRMR 201-4.001). FIP maintenance is considered a subset of FIP support services.

(b) Determine if the agency has authority to acquire the FIP resources by virtue of a specific agency or regulatory delegation, or if a specific acquisition delegation must be obtained. This requires comparing the total estimated dollar value of all the FIP resources to be acquired to the criteria and thresholds specified in FIRMR 41 CFR 201-20.305. NASA may contract for FIP resources without obtaining a specific acquisition delegation when the total dollar value of FIP resources, including all optional quantities and periods over the life of the contract, does not exceed the authority delegated from GSA; except that the dollar value for a specific make and model specification or for requirements available from only one responsible source may not exceed the authority delegated from GSA.

(1) Assessments and determinations for acquisitions greater than \$50,000 will be documented in the contract file with the following certification format:

(Format)

**FIRMR Applicability and Procurement
Authority Certification**

Procurement Title: _____

Procurement Request Number: _____

The acquisition requirements have been reviewed and an assessment of the resources to be delivered or used in satisfying these requirements has been made. These resources have been characterized as either FIP or non-FIP resources. Based on FIRMR 201-1.002, including FIRMR bulletin A-1 and NHB 2410.1, I determine that the subject procurement is _____ /is not _____ subject to the FIRMR.

[Note: If the contract will involve information technologies determined to be not subject to the FIRMR (see FIRMR 201-1.002-2), explain the rationale in a separate attachment.]

If the acquisition is subject to the FIRMR, I certify that the thresholds in NFS 1839.7003-2(b) have been reviewed and that this procurement does _____/does not _____ require a specific acquisition Delegation of Procurement Authority.

FIP Resources:

Equipment \$ _____
 Software _____
 Services _____
 Support Services _____
 Related Supplies _____
 Total FIP Resources \$ _____
 Non-FIP Resources \$ _____
 (Include incidental and embedded FIP Resources)
 Total of All Resources \$ _____
 Contracting Officer: _____
 Concurrence (if required) _____
 (SIO if \$25 million or more)
 (SIO or designee if less than \$25 million and required by Installation procedures)
 Attachment: Rationale for Non-Applicability of FIRMR to FIP Resources.

(End of format)

(2) The contracting officer shall provide an information copy of the FIRMR Applicability and Procurement Authority Certification through the cognizant IPO to Code JT for acquisitions \$25 million or more.

(3) Assessments and determinations for acquisitions \$50,000 or less will be documented in the contract file in accordance with local procedures.

(c) Although the contracting officer has authority to make decisions concerning the applicability of the FIRMR to NASA solicitations and contracts or modifications, in the event of a disagreement within the Installation as to the applicability of the FIRMR to a NASA solicitation or contract or modification, the SIO has the authority to make final decisions.

[57 FR 58721, Dec. 11, 1992, as amended at 60 FR 40518, Aug. 9, 1995]

1839.7003-3 GSA nonmandatory MAS contracts.

(a) Use of GSA nonmandatory multiple award schedule (MAS) contracts is a competitive procedure relative to FAR Part 6 when:

(1) The contracting officer has complied with FIRMR 201-39.803-3(a)(2) to consider a reasonable number of nonmandatory MAS contractors that can satisfy the functional requirements;

(2) The contracting officer has fully complied with FIRMR 201-39.803-3(b) regarding responses to any required synopsis; and

(3) The contract file is adequately documented that the delivery order placed to the selected nonmandatory MAS contractor represents the lowest overall cost to the Government.

(b) If the procedures in paragraph (a) are followed, even though the resultant order may be issued for a specific manufacturer's product by name and model number, this is not a procurement for a specific make or model requiring a Justification For Other Than Full and Open Competition (JOFOC); the exception in FIRMR 201-39.601-2 applies.

(c) Generally a "reasonable number" means consideration of at least two compliant nonmandatory MAS contractors. Prudence would suggest considering three or more compliant nonmandatory MAS contractors.

(d) A specification that attempts to describe salient characteristics is not in itself conclusive evidence of a full and open competitive environment. The decisive factor is whether a product other than a specific make or model can satisfy the requirements expressed in such a specification. For example, if the salient characteristics were repeated off of or were derived directly from a product specification, a new product release issuance, or similar data sheet of a specific make or model or brand name, the requirements are probably not described in other than specific make or model specifications. Salient characteristics so derived are likely to be product-specific performance characteristics or proprietary design specifications. This specification, although it includes salient functional or performance characteristics, does not provide for full and open competition.

(e) Use the competitive threshold authority delegated from GSA for obtaining a DPA when use of a GSA nonmandatory MAS contract is a competitive procedure relative to FAR part 6. Use the noncompetitive threshold authority delegated from GSA when use of a GSA nonmandatory MAS contract is a noncompetitive procedure relative to FAR part 6.

(f) A brand name specification is a specific make or model specification and if an acquisition requires a contractor to comply with either such specifications, the acquisition must be justified and approved in accordance with FAR 6.303 and 6.304.

[57 FR 58721, Dec. 11, 1992, as amended at 60 FR 40518, Aug. 9, 1995]

1839.7003-4 APR format.

(a) (FIRM) 41 CFR 201-20.305-3 requires NASA to prepare APRs as indicated by instructions in the FIRM Bulletin series. APRs under the Trail Boss Program will be submitted in the format provided in FIRM Bulletin C-7, entitled "Trail Boss Program," as modified by Enclosure C-5B of NHB 2410.1. APRs for all other FIP resources, will be submitted in the format provided in FIRM Bulletin C-5, entitled "Instructions for Preparing an Agency Procurement Request (APR)," as modified by Enclosure C-4B of NHB 2410.1.

(b) When FIP resources are being acquired under an indefinite delivery/indefinite quantity contract or under a contract that includes options for additional quantities of such resources, include a statement in the APR similar to the following:

The _____ (identifying contracting activity) is the primary requiring activity for the items described in this APR. However, to further the most efficient and economical agency-wide acquisition of these resources, the contract will allow delivery to other NASA installations having requirements for the same resources. The _____ (identify contracting activity) will have the sole authority to place orders under this contract and authorize delivery to the alternate delivery points.

(c) The following matrix is provided to help in deciding if a document is required by the APR under Regulatory Compliance:

Type of requirement	Documentation items										
	1	2	3	4	5	6	7	8	9	10	11
FIP equipment	R	R	A	S	P	P	P	C	C	C	T
FIP software	R	R	A	S	P	P	P	C	C	C	T
FIP services	R	R	A	S	P	N	P	C	C	C	T
FIP support services	R	R	N	N	P	N	P	N	N	N	T
FIP related supplies	R	R	N	N	P	P	P	N	N	N	T

Documentation Items Legend

1. Requirements analysis (FRDD part 2).
2. Analysis of alternatives (FRDD part 3).
3. Determination to support hardware compatibility-limited requirements.
4. Conversion study (FRDD part 3).
5. Certified data to support a requirement available from only one responsible source (the JOFOC).
6. Certified data to support use of a specific make and model specification (the JOFOC).
7. Description of planned actions necessary to foster competition for subsequent acquisitions (the JOFOC).
8. Justification for more than one agency to provide switching facilities or services at building locations (FIRM 201-20.305-1(a)(1)(i)).
9. Exception to the use of the FTS2000 mandatory network services (FIRM 201-20.305-1(a)(1)(ii) and 201-24.101-1(b)).
10. Exception to the use of GSA mandatory local telecommunications services (FIRM 201-20.305-1(a)(1)(ii) and 201-24.102(c)).
11. Trail Boss Charter and Statement of Qualification.

R=Required.

A=Required if there are compatibility limited requirements.

N=Not required.

P=Required unless full and open competition.

C=Required if telecommunications exceptions are sought.

S=Required if a conversion study must be performed for equipment, software, or services.

T=Required for a Trail Boss Acquisition.

[57 FR 58721, Dec. 11, 1992, as amended at 58 FR 59189, Nov. 8, 1993; 60 FR 40518, Aug. 9, 1995]

1839.7003-5 APR submission.

(a) The contracting officer shall forward the original of the APR submittal (the APR and all required documentation) to Headquarters Code JTD, with a transmittal letter (see NHB 2410.1, Enclosures C-4A and C-5A) signed by the procurement officer. Include a 5¼" or 3½" diskette, formatted for use on a

DOS 3.3, or higher compatible, personal computer, that contains a WordPerfect 5.0 or 5.1 or ASCII format of the APR.

(b) APR's should be submitted as soon as, but not before, the FRDD and other documentation (waivers, JOFOCs, procurement plans, or ASM minutes, as appropriate) have been completed and approved in final form within the Agency.

[60 FR 40518, Aug. 9, 1995]

1839.7003-6 DPA amendments.

(a) The maximum possible cumulative dollar value of the contract(s) entered into by authority of a DPA may not exceed the value of the DPA granted by GSA. A DPA is granted on the basis of information contained in the APR. An amendment to a DPA must be obtained whenever any material change is expected from the basis on which the DPA was granted. This applies to any specific acquisition DPA, including a Trail Boss DPA. An APR shall be used to accomplish this.

(b) Amendments to a previously submitted or approved specific acquisition DPA should follow the same procedures and employ the same format as that required by the current FIRMR and (NFS) 48 CFR part 1839. For such an APR, see NHB 2410.1, Enclosure C-3, paragraph 2. The existing documentation supporting the acquisition should be reviewed and certified by the procurement officer as to its timeliness. If this documentation is either not current or affected by the amendment, the documentation shall be revised. If an original document was submitted or requested by Headquarters or GSA, its revision shall be resubmitted with the APR.

(c) The following are reasons for submitting an APR to seek an amended DPA:

(1) A substantive revision in the technical requirements.

(2) A change in acquisition strategy.

(3) Slippages in the planned contract award date that exceed 12 months. (Slippages less than 12 months should be identified to GSA during routine status reporting.)

(4) A change in contract life.

(5) A change in the position title or organizational identity of the official authorized to conduct the acquisition.

(6) An increase in anticipated contract costs.

(d) Contracting officers should inform Code JTD of any expected decreases greater than 25 percent in the total FIP resources to be acquired on a DPA. Code JTD will determine whether GSA should be informed of such decreases.

[57 FR 58721, Dec. 11, 1992, as amended at 60 FR 40519, Aug. 9, 1995]

1839.7004 FIP Resources Decision Document.

When NHB 2410.1 provides for approval of a FIP Resources Decision Document (FRDD) at the local level, the approved FRDD, including its enclosures and attachments, must be an enclosure to the APR. Unless the FRDD has previously been sent to Headquarters, the FRDD is submitted to Headquarters along with the APR.

[57 FR 58721, Dec. 11, 1992, as amended at 60 FR 40519, Aug. 9, 1995]

1839.7005 Coordination.

(a) APRs are subject to comparison with acquisition plans and general review by Code HS, Code JTD, and the cognizant IPO before submission to GSA.

(b) Communications with GSA regarding APRs shall be through Code JTD, unless that office directs otherwise. Installations should refer any direct inquiries from GSA, with the exception of acquisitions under the Trail Boss Program, without comment, to Code JTD.

(c) NASA will not normally make presentations to GSA regarding APRs unless requested by GSA. Any exceptions are subject to coordination by Code HS, Code JTD, and the cognizant IPO.

1839.7006 DPA transmittal.

(a) GSA delegates its procurement authority to the DSO. The DSO must explicitly redelegate specific acquisition DPAs to the contracting organization, before the contracting officer has authority to either issue solicitations or obligate NASA. Delegation of regulatory and specific agency procurement authority will be handled as directed by the Chief Information Officer.

(b) GSA's delegations of specific acquisition authority to NASA, with the exception of acquisitions under the Trail Boss Program, are transmitted to Code A or designee (Code JTD), and are redelegated to the appropriate procurement officer by transmitting the approved APR and the signed DPA with a cover letter containing additional instructions and guidance. A copy of this entire package shall be retained in the contract file.

(c) GSA's delegations of specific acquisition authority to NASA, for acquisitions under the Trail Boss Program, are transmitted to the Trail Boss, and are redelegated to the appropriate procurement officer by transmitting the approved APR and the signed DPA with a cover letter containing additional instructions and guidance. A copy of this entire package shall be retained in the contract file.

(d) Pre-award and post-award reports include 6-Month Status Reports and Contract Award Reports.

(1) GSA requires a 6-Month Status Report on all specific acquisition DPA's for which a contract or modification has not been awarded. The contracting officer shall submit status reports to Code JT not later than May 15 and November 15 of each year. The contents of these reports are specified in the DPA.

(2) GSA requires a Contract Award Report within 30 days after award of a contract or modification issued pursuant to a specific acquisition DPA. The contracting officer shall submit Contract Award Reports to Code JT not later than 25 days after the award of a contract or modification.

(e) Code JTD requires an Annual Status Report on all extant contracts with specific acquisition DPA's. The contracting officer shall submit an Annual Status Report to Code JT not later than November 15 of each year. The reports are in lieu of (and not in addition to) GSA's annual reporting requirement.

(f) Questions from either GSA or the installation regarding the DPA shall be referred to Code JTD.

[57 FR 58721, Dec. 11, 1992, as amended at 60 FR 40519, Aug. 9, 1995]

1839.7007 Numbering provisions and clauses.

When adherence to the FIRMR results in the use of provisions or clauses not prescribed in the FAR or NFS, use the FIRMR number and FIRMR provision or clause title.

1839.7008 NASA contract clause.

(a) The contracting officer shall insert the clause substantially as stated at 1852.239-70, Alternate Delivery Points, in solicitations and contracts for Federal Information Processing Resources when:

(1) An indefinite delivery/indefinite quantity contract will be used or when the contract will include options for additional quantities of such resources; and

(2) Delivery is F.O.B. destination to the contracting activity.

(b) When delivery is F.O.B. origin and Government bills of lading (GBL) are used, the contracting officer shall use the clause with its Alternate I.

[58 FR 59189, Nov. 8, 1993]

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 1840—[RESERVED]

PART 1841—ACQUISITION OF UTILITY SERVICES

Subpart 1841.1—General

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1841.101 Definitions.

Subpart 1841.2—Acquiring Utility Services

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1841.204 GSA areawide contracts.

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Subpart 1841.4—Administration

1841.402 Rate changes and regulatory intervention.

Subpart 1841.5—Solicitation Provision and Contract Clauses

1841.501 Solicitation provision and contract clauses.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 60 FR 16060, Mar. 29, 1995, unless otherwise noted.

Subpart 1841.1—General

1841.101 Definitions.

Utility suppliers, as used in this subpart, may be quasi-public service corporations, private concerns, municipalities, associations, or cooperatives. They generally operate in a franchised territory without competition, so they may frequently be in a sole-source position. Under common law, public utilities must render service at reasonable rates and without discrimination. Their operations, management, rates, and profits are usually regulated by Federal, State, or local regulatory bodies, but absence of a regulatory body does not necessarily mean a complete

lack of control. Administrative remedies pursuant to enabling statutes may be pursued or complaints may be taken to a court of competent jurisdiction.

Subpart 1841.2—Acquiring Utility Services

1841.201 Policy.

(a) Requirements for utility services shall be determined by technically qualified personnel who will assist the contracting officer as required. Before soliciting technical assistance outside the agency (see 48 CFR (FAR) 41.203), technical personnel shall contact the Environmental Management Division (Code JE), NASA Headquarters.

(b) Appropriated funds may not be used to purchase electricity in a manner inconsistent with state law governing the provision of electric utility service, including state utility commission rulings and electric utility franchises or service territories established pursuant to state statute, state regulation, or state-approved territorial agreements (Pub. L. 100-202, Sec. 8093, 101 Stat. 1329-79). Before acquiring electric utility service, the contracting officer shall determine whether the manner of acquisition, in particular, competitive acquisition under 48 CFR (FAR) 41.205(b), would be inconsistent with state law. Section 8093 of Pub. L. 100-202 is not intended to affect transfers of electricity to agencies from Federal power marketing agencies or the Tennessee Valley Authority, such as NASA's power allocation from the Western Area Power Marketing Administration. Such transfers do not constitute "purchases" for purposes of section 8093.

1841.204 GSA areawide contracts.

(a) GSA publishes a checklist of utility services available under its areawide public utility contracts. The checklist specifies contract numbers, expiration dates, companies, and areas serviced. Copies of the checklist may be obtained from GSA, Public Utility

Division (PPU), Public Buildings Service, Washington, DC 20405 ((202) 501-3994).

(b) In determining whether a GSA area-wide public utility contract is adequate to meet requirements, procurement officers should consider (1) the areawide contract rates and volume of service required, (2) any unusual characteristics of the service required, (3) any special equipment or facility requirements, (4) any special technical contract provisions required, and (5) any other special circumstances.

(c) If a procurement officer finds that a separate negotiated contract would be more advantageous to the Government than the GSA areawide public utility contract, the procurement officer shall submit a request to the Associate Administrator for Procurement, NASA Headquarters (Code HS), for a waiver of the requirement to use the GSA areawide public utility contract. The request shall explain the merit of a separately negotiated contract.

1841.205 Separate contracts.

1841.205-70 Renewal of contracts.

(a) A contract may be renewed or extended by option, provided that the contract is not in effect for more than a total of 5 successive years.

(b) Contracting officers shall consider selecting an expiration date for the contract sufficiently after the end of the fiscal year to ensure that appropriations will be available when the option is exercised.

1841.205-71 Headquarters requirement for copies of contracts.

The contracting officer shall forward, promptly after execution, one copy of each contract, service authorization form, memorandum of understanding, and modification to the Associate Administrator for Procurement, NASA Headquarters (Code HS) and the Environmental Management Division, NASA Headquarters (Code JE).

1841.205-72 Contents of a negotiated utility service contract.

(a) All negotiated utility service contracts estimated to exceed \$2,500 annually shall be written in accordance

with the directions in paragraphs (a)(1) through (5) of this section:

(1) *SF 26*. Use Standard Form 26 (see 48 CFR (FAR) 53.215-1(b)).

(2) *Appendix A*.

(i) Include the rate schedule, which shall consist of—

(A) The published rate schedule of the contractor approved or established by a Federal, State, or other regulatory body; or

(B) The rate schedule negotiated between the contractor and the Government.

(ii) The rate schedule shall bear the legend “Appendix A, attached to and made a part of Contract No. _____,” and be entitled “Rate Schedule.” Each page shall indicate its number and the total number of pages comprising Appendix A, as, for example, “page 1 of 3.” In addition to stating the rate applicable to the contract, Appendix A shall include any applicable rules or regulations (whether established by the regulatory body, the contractor, or negotiation between the contractor and the Government) pertaining to the Rate Schedule. Appendix A may provide for payment to the contractor of a nonrecurring, nonrefundable fee not exceeding \$1,000 for the costs of connecting the contractor’s facilities to, and disconnecting them from, the Government’s facilities, if the contract period is less than 6 months. In all other instances where a connection charge is involved, the “Connection Charge” clause (48 CFR (FAR) 52.241-9) and Appendix C (see paragraph (a)(4) of this section) shall be included in the contract.

(3) *Appendix B*. Include the service specifications applicable to the contract, which shall consist of a specially drafted attachment to the contract bearing the legend “Appendix B, attached to and made a part of Contract No. _____,” and the title of the appropriate service specifications. Each page shall indicate its number and the total number of pages comprising Appendix B, as, for example, “page 1 of 3.” Such appendix shall contain as a minimum—

(i) The premises to be served;

(ii) An estimate of the service requirements;

(iii) The point of delivery to the Government;

- (iv) A description of the service;
- (v) A statement of how the service is to be measured for purposes of billing; and
- (vi) A statement of the capacity and flow of the service.

(4) *Appendix C.* Include the connection charge schedule required whenever the contract includes the connection charge clause at 48 CFR (FAR) 52.241-9 or the termination clause at 48 CFR (FAR) 52.241-10. It shall bear the legend "Appendix C, attached to and made a part of Contract No. _____," and be entitled "Connection Charge Schedule." Each page shall indicate its number and the total number of pages comprising Appendix C, as, for example, "page 1 of 3." The appendix shall contain as a minimum a detailed description of the new facilities to be furnished by the contractor.

(5) Include any contract clauses required by 1841.501 or 48 CFR (FAR) 41.501.

(b) Any negotiated utility service contract estimated not to exceed \$2,500 annually shall consist of—

- (1) Standard Form 26 (48 CFR (FAR) 53.215-1(b));
- (2) An Appendix A (see paragraph (a)(2) of this section); and
- (3) Any contract clauses required by 1841.501 or 48 CFR (FAR) 41.501.

1841.205-73 Authorization for procurement of wellhead natural gas.

(a) Acquisition of wellhead natural gas and interstate transportation of the natural gas to locally franchised distribution utility companies' receipt points (city gate) is considered the procurement of supplies rather than the procurement of public utility services described in 48 CFR (FAR) part 41. Therefore, wellhead natural gas and interstate transportation of such gas should be obtained directly by NASA under applicable authorities and FAR procedures governing the acquisition of supplies. Redelivery of the gas from the city gate to the NASA facility is considered a utility service since it is provided only by the locally franchised utility. GSA is responsible for obtaining an appropriate contract for the redelivery service in accordance with 48 CFR (FAR) 41.204.

(b) GSA provides assistance to Federal agencies in the procurement of natural gas wellhead supplies. Contracting officers requiring assistance in determining the feasibility of procuring natural gas supplies on a facility by facility basis may contact General Services Administration, Public Building Services, Public Utilities Division, Code PPU ((202) 501-3994). In contacting GSA, contracting officers should provide data pertaining to present gas usage exceeding 50,000 Mcf per year. GSA has found that 50,000 Mcf is the annual volume below which wellhead purchases may not be economically feasible.

1841.205-74 Utility service narrative.

(a) Before initiating negotiations, the contracting officer shall submit a Utility Service Narrative for proposed procurements for new utilities services, renegotiations or extensions of existing utility services, or existing contracts that require a negotiation for change of rate schedules, to the Associate Administrator for Procurement (Code HS), NASA Headquarters. The Utility Service Narrative shall include—

- (1) A brief technical description of the service required or being furnished;
- (2) Justification of the reasonableness of the proposed rate;
- (3) An outline of the field installation's proposed negotiation tactics, basis for position, and any alternative position;
- (4) An estimate of the annual cost of service; and
- (5) Other related items, as applicable, such as connection charges, termination liability, facilities charges, requirement for Government capital costs, or any unusual factors affecting the procurement.

(b) The Associate Administrator for Procurement (Code HS), with the coordination of the Environmental Management Division (Code JE), will review the information submitted under paragraph (a) of this section. If NASA Headquarters desires to participate in the negotiations, the Associate Administrator for Procurement (Code HS), NASA Headquarters, shall inform the contracting officer within 30 days after receipt of the Utility Service Narrative.

1841.205-75 Contracts requiring Headquarters approval.

Contracts and supplemental agreements for utility services shall be submitted to the Associate Administrator for Procurement, NASA Headquarters (Code HS), for approval as required by 48 CFR 1804.7203 and 1807.71.

1841.206 Interagency agreements.

(a) The Department of Defense (DOD) enters into areawide fuel oil and other energy-service contracts. DOD areawide contracts provide that the contractor shall, upon receipt of an order in the form prescribed by the contract, furnish the service involved without further negotiations as to rates and charges, in accordance with the established and field rate schedules applicable to the service.

(b) When procuring utility services from another Government agency by cross-servicing, the procurement office shall use a memorandum of understanding specifying the services to be provided and the conditions under which they will be supplied. A Utility Service Narrative shall be submitted in accordance with 1841.205-74.

Subpart 1841.4—Administration**1841.402 Rate changes and regulatory intervention.**

(a) When the contractor notifies the contracting officer as provided in the change of rates clause at 48 CFR (FAR) 52.241-7, or whenever the contractor requests that rate changes be negotiated, as provided in the change in rates clause at 48 CFR (FAR) 52.241-8, the contracting officer shall notify the Associate Administrator for Procurement, NASA Headquarters (Code HS) and the Environmental Management Division, NASA Headquarters (Code JE). The notification shall include sufficient information to permit a determination of the monetary effect of the proposed changes, a recommendation under paragraph (a) (1) or (2) of this section, and the basis for the recommendation.

(1) When notice is received that the contractor has filed an application for rate changes before the local regulatory body, the contracting officer shall recommend whether or not the

Government should intervene at the hearing on the application. If it is recommended that the Government intervene, the recommendation shall be accompanied by a statement containing the basis for intervention and the extent to which the installation can support intervention by presenting testimony, preparing exhibits, and furnishing legal counsel.

(2) When notice is received that the contractor requests that rate changes be negotiated, the contracting officer shall recommend the position to be taken by the Government regarding the rate changes and state the extent to which installation personnel are available to support this position.

(b) The Associate Administrator for Procurement, NASA Headquarters, with the technical assistance of the Environmental Management Division (Code JE), NASA Headquarters, shall furnish the contracting officer a recommendation concerning the proposed rate changes and the extent to which NASA Headquarters will participate in the intervention before the local regulatory body or in negotiations with the contractor. Before recommending any action, the Associate Administrator for Procurement, NASA Headquarters shall, as necessary, coordinate with other staff offices or divisions, or other Government agencies. The contracting officer shall await the instructions of the Associate Administrator for Procurement, NASA Headquarters, for at least 30 calendar days before submitting the matter to GSA (see 48 CFR (FAR) 41.402(b)) or taking other action concerning the proposed rate changes.

Subpart 1841.5—Solicitation Provision and Contract Clauses**1841.501 Solicitation provision and contract clauses.**

The contracting officer shall insert the clause at 48 CFR 1852.241-70, Renewal of Contract, whenever it is desirable that the utility service be provided under the same terms and conditions for more than 1 year (see 1841.205-70).

National Aeronautics and Space Administration

1842.101

PART 1842—CONTRACT ADMINISTRATION

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AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 54 FR 28299, July 5, 1989, unless otherwise noted.

Subpart 1842.1—Interagency Contract Administration and Audit Services

1842.101 Policy.

It is NASA policy to optimize the use of contract administration, audit, and related support functions of the Department of Defense (DOD) and other Government agencies. NASA agreements with Government agencies regarding the delegation and performance of contract administration and related field support functions are the responsibility of the Defense Division

(Code ID). However, questions may be directed to the Analysis Division (Code HC). NASA retains technical direction of all its contracts regardless of the agency responsible for contract administration.

[54 FR 28299, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 59 FR 66270, Dec. 23, 1994; 60 FR 40519, Aug. 9, 1995]

1842.102 Procedures.

DOD contract administration and audit offices will accomplish the delegated functions in accordance with DOD regulations and procedures, except that the following take precedence over DOD regulations and procedures:

(a) NASA letters of delegation, including any special instructions attached to them.

(b) Applicable requirements of NASA Quality Publication NHB 5300.4(2B), Quality Assurance Provisions for Government Agencies.

(c) Any written agency agreements between NASA and DOD.

1842.102-70 Management of subcontracts.

Because prime contractors are responsible for managing subcontracts, contract administration functions shall be performed by the Government for subcontracts only if necessary to meet specific NASA requirements. Delegations for contract administration at subcontractors' plants normally shall be made by or through the contract administration offices responsible for the prime contractors. When a direct delegation is made for performance of contract administration functions at a subcontractor's plant (such as for quality assurance), the contracting officer shall:

Coordinate in advance with the contract administration office responsible for the prime contractor and provide copies of the delegation to that office.

[54 FR 28299, July 5, 1989, as amended at 55 FR 12177, Apr. 2, 1990]

1842.170 Assignment of NASA personnel at contractor plants.

(a) NASA personnel normally shall not be assigned at or near a contractor's facility to perform any contract administration functions listed in FAR

42.302(a). Before such an assignment is made, a written request shall be forwarded to the cognizant program director for approval and the concurrence of the Associate Administrator for Procurement. The following supporting information shall be forwarded with the request to make the assignment:

(1) A statement of the special circumstances that necessitate the assignment.

(2) The contract administration services to be performed.

(3) A summary of any discussions held with the cognizant contract administration organization.

(4) A staffing plan covering three years or such shorter period as may be appropriate. The provisions of this paragraph (a) do not apply to NASA audit personnel assigned to the field installations, to NASA technical personnel covered by 1842.101 and paragraph (b) of this section, unless they are performing any contract administration functions listed in FAR 42.302(a), or to personnel assigned to contractors' plants on NASA or other Federal installations.

(b) NASA may assign technical personnel (such as quality assurance, reliability, or engineering representatives) to contractors' plants or laboratories to provide direct liaison with NASA and technical assistance and guidance to the contractor and DOD. The duties and responsibilities of these technical representatives shall be clearly defined and shall not conflict with, duplicate, or overlap with functions delegated to DOD personnel. NASA shall advise appropriate DOD and contractor organizations of the duties and responsibilities of NASA technical personnel. When NASA technical personnel are performing any of the contract administration functions listed in FAR 42.302(a), paragraph (c) of this section applies.

(c) When a NASA resident office and a DOD contract administration office are performing contract administration functions for NASA contracts at the same contractor's facility, the two offices shall execute a written agreement clearly establishing the relationship between the two organizations and the contractor. The agreement should

eliminate duplication in the performance of contract administration functions and minimize procedural misunderstandings between the two organizations. Such agreements shall be consistent with existing delegations to the contract administration offices concerned and shall specify the relationship of NASA nonprocurement resident personnel to their DOD and contractor counterparts if such personnel are, or intend to be, involved in any aspect of contract administration.

1842.171 Contractor performance at a NASA installation.

When a NASA contract requires contractor performance at another NASA installation or NASA-controlled launch site, a delegation shall be made to the contracting office of the NASA installation at which performance will occur. Delegations normally will include the functions listed in FAR 42.302(a), less any functions retained under 1842.202. In addition, delegations shall include the contracting officer security functions (when required in the performance of the contract at the installation or site) and the administration of any NASA support provided to the contractor.

1842.172 Contract administration by DOD personnel at a NASA installation.

If DOD personnel will perform contract administration functions at a NASA installation for more than 30 workdays (either continuous or intermittent), the NASA contracting officer shall obtain prior approval from the head of the installation where the DOD personnel will be located. The concurrence of the Director, Contract Management Division (Code HK) shall also be obtained.

[58 FR 51141, Sept. 30, 1993]

1842.173 Reimbursement for contract administration services.

The basis for reimbursement to DOD for contract administration and related support services is the NASA-DOD Agreement for Contract Administration and Contract Audit Services. Budgeting, funding, and payment for these services shall be accomplished in accordance with NMI 7410.1, Manage-

ment, Funding, and Payment for Contract and Grant Administration and Audit Services Obtained from Other Federal Agencies. The NASA installation issuing the delegation has responsibility for budgeting, funding, and payment of bills of lading for transportation performed as a result of a traffic management delegation.

[54 FR 28299, July 5, 1989, as amended at 59 FR 12198, Mar. 16, 1994]

1842.174 Reporting requirements.

(a) NASA installations shall assess their delegations to DOD semiannually to determine changes in delegation patterns that could:

(1) Result in significant increases or decreases in future DOD manpower requirements or

(2) Have other important impacts on DOD contract administration activities.

Events such as major program cutbacks or expansions, changes in locations of major programs, and sizeable new procurements should be considered in the assessment.

(b) When an event will affect DOD administration of contracts for NASA significantly, a summary of the assessment shall be submitted to the Director, Contract Management Division (Code HK). The summary shall include at least—

(1) A description of the change in work requirements or delegation pattern;

(2) The estimated duration of the impact; and

(3) A prediction of the impact on DOD in terms of changes in manpower requirements or other costs.

(c) NASA installations shall discuss with appropriate DOD contract administration offices the predicted impact on DOD. The results of these discussions, such as DOD agreement or disagreement with the predicted impact, shall be included in the report.

[54 FR 28299, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 58 FR 51141, Sept. 30, 1993]

1842.175 Functional management responsibility.

NASA contracting officers retain functional management responsibility

for their contracts. Utilization of the contract administration services of another Government agency or NASA installation does not relieve the NASA contracting officer of responsibility for proper and effective management of the contract. Therefore, the NASA contracting officer must ensure that the contract administration office understands the respective duties and responsibilities of each office in connection with each NASA contract. NASA contracting officers shall keep themselves fully informed on contractor performance and progress by establishing and maintaining effective communications with contract administration offices.

Subpart 1842.2—Assignment of Contract Administration

1842.202 Assignment of contract administration.

(a) *Policy.* (1) It is NASA policy that maximum use be made of those contract administration and contract audit services available from DOD, subject to the recognition that certain functions may be withheld as being necessary for program management, or other reasons. Those services will normally be performed by the Department of Defense (DOD) in accordance with the terms of the NASA contracts and applicable DOD regulations and procedures, unless special NASA requirements necessitate other arrangements.

(2) Contracting officers should carefully determine for each contract award the optimum division of contract administration functions between those performed with NASA resources and those performed by DOD and other Government agencies. Factors affecting the assignment of contract administration include—

- (i) Place of contract performance;
- (ii) Nature of the supplies or services being acquired;
- (iii) Extent of general existing DOD contractor oversight;
- (iv) Extent of subcontracting to be performed by the prime contractor;
- (v) Quality assurance requirements;
- (vi) Security requirements; and
- (vii) Government property administration requirements.

(3) Since NASA reimburses DOD for all contract administration performed on NASA contracts, only those functions that can be performed more efficiently and effectively by DOD, given the circumstances of the procurement, should be delegated.

(b) *Assignable functions.* With the exception of the functions listed under paragraph (c) of this section, any or all of the functions listed in FAR 42.302 may be delegated to DOD for performance based on the contracting officer's assessment of what will lead to the most efficient and effective contract management for the individual procurement. A blanket delegation of all assignable functions listed in FAR 42.302(a), with the exception of the non-assignable functions of this section, is generally appropriate when the contract place of performance is the contractor's facility and onsite DOD contract administration services are available. However, each function must be reviewed to ascertain if the function could better be performed by the NASA contracting officer.

(c) *Restricted functions.* The functions listed below may not be delegated, except as indicated.

(1) Approval of the final voucher (FAR 42.302(a)(7)).

(2) Countersigning NASA Form 456, Notice of Contract Costs Suspended and/or Disapproved (FAR 42.302(a)(8)).

(3) Issuance of decisions under the disputes clause (FAR 42.302(a)(10)).

(4) Contract payment (FAR 42.302(a)(13)).

(5) Execution of supplemental agreements involving spare parts or other items selected through provisioning procedures. However, delegation of the negotiation of supplemental agreements for spare parts and other items and forwarding for approval and signature of the NASA contracting officer is permitted (FAR 42.302(a)(22)).

(6) Execution of change orders (FAR 42.302(b)(8)). However, delegation of the negotiation of supplemental agreements for change order definitization and forwarding for approval and signature of the NASA contracting officer is permitted (FAR 42.302(b)(1)).

(7) Issuing termination notices and executing supplemental agreements for settlement of termination for default

or for convenience of the Government. However, delegation of the negotiation of termination settlements and forwarding for approval and signature of the NASA contracting officer is permitted using NASA Form 1432 (FAR 42.302(a)(23)).

(8) Consent to placement of subcontracts under FAR 42.302(a)(51). However, in those situations where the contracting officer considers it necessary to delegate consent to subcontract, the requirements of 1844.102(b) shall be met prior to delegation.

[56 FR 32117, July 15, 1991, as amended at 56 FR 48748, Sept. 26, 1991; 57 FR 839, Jan. 9, 1992]

1842.202-70 Delegations to contract administration offices.

(a) *General.* The following procedures apply to delegations to contract administration offices (for delegations to audit and security offices, see 1842.202-71 and 1842.202-72, respectively):

(1) At the time of contract award the NASA contracting officer shall review contract performance requirements to determine the nature and extent of expected contract administration functions. This review shall be coordinated with appropriate installation functional representatives, including program managers, to ensure that all essential requirements are incorporated in the delegation. A similar review shall be made before amending letters of delegation.

(2) In most cases, contracting officers should contact the cognizant contract administration office and discuss planned delegation(s) with the administrative contracting officer. The contracting officer should elevate disagreements with the cognizant contract administration office to higher levels for resolution.

(3) A post-award planning conference (see FAR 45.503) shall be held with representatives of the contract administration office when—

(i) A contract is expected to exceed \$5,000,000;

(ii) Contract performance is required at or near a NASA installation or NASA-controlled launch site;

(iii) The delegation will impose an abnormal demand on the resources of

the contract administration office receiving the delegation; or

(iv) Complex contract management problems are expected.

(4) Procurement officer approval is required to waive a post-award planning conference for contracts meeting any of the criteria in paragraph (a)(3) of this section. The request for procurement officer approval to waive a post-award conference shall address action taken and planned to ensure effective communication with the contract administration office during the performance of the contract.

(5) When functions are to be delegated (or when prior delegations require modification), contracting officers shall—

(i) Within 15 days after contract award, prepare and forward NASA Form 1430, Letter of Contract Administration Delegation, General, to the contract administration office. NASA Form 1430A, Letter of Contract Administration, Special Instructions, will supplement the NASA Form 1430, to modify previously delegated functions and provide additional or particular information considered necessary to ensure clear understanding of all delegated functions.

(ii) Forward NASA Form 1431, Letter of Acceptance of Contract Administration, with each NASA Form 1430 or 1430A. If the NASA Form 1431 has not been returned within 45 days of transmittal, the contracting officer shall initiate follow-up inquiry to determine the status of the delegation request. Contracting officers shall use the returned NASA Form 1431 as contract file documentation that the delegation has been accepted, modified or rejected by the contract administration office and as a reference for points of contact for each of the functional areas delegated.

(iii) Modify existing delegations, as necessary, consistent with paragraphs (a)(5) (i) and (ii) of this section.

(6) Letters of delegation shall clearly and specifically state which functions are delegated. Delegations and delegation amendments shall be accompanied by documentation and supporting information that will ensure a complete understanding of the contract administration services to be performed. The

contracting officer shall keep the contract administration office fully informed of any actions that may affect the performance of the delegated functions. Copies of all significant documents shall be furnished to the contract administration office throughout the period of performance. Significant documents include, but are not limited to—

(i) All contractual documents such as the contract and any specifications and drawings, change orders, supplemental agreements or contractor proposals referenced in the contract;

(ii) Negotiation memoranda covering negotiations of contracts or contract changes in excess of \$100,000;

(iii) Copies of any delegation and amendments if sent to other contract administration offices that have a bearing on the contract, including those issued pursuant to 1842.102-70; and

(iv) Any other correspondence affecting contract performance under the contract.

(7) Delegations shall be sent to DOD contract administration offices in accordance with the instructions in the DOD Directory of Contract Administration Services Components (DLAH 4105.4).

(8) The contracting officer shall distribute copies of the contract and letters of delegation for contract administration (including amendments) as follows:

(i) To Defense Contract Management Command (DCMC) and all other Government contract administration offices except DOD military contract administration offices, when two or more functional areas are delegated: Five copies of the contract and NASA Form 1430 and three NASA Forms 1431.

(ii) To DOD military component offices when two or more functional areas are delegated: Three copies of the contract and three NASA Forms 1430 and 1431.

(iii) To any contract administration office when a single functional area is delegated: Two copies of the contract and two NASA Forms 1430 and 1431.

(iv) To the contractor: One NASA Form 1430.

(b) *Reliability and quality assurance.* When special instructions for reliability

or quality assurance are necessary, they shall be (1) clearly identified by the NASA installation personnel responsible for the reliability and quality assurance function and (2) furnished to the contracting officer on NASA Form 1430A for inclusion in the letter of delegation. The procedures for arranging, preparing, and finalizing such delegations and the requirements for NASA direction and management of these functions are contained in installation procedures. The latest edition of NHB 5300.4(2B), *Quality Assurance Provisions for Delegated Government Agencies*, describes the requirements for performing quality assurance functions under NASA contracts.

(c) *Transportation and packaging.* Transportation and packaging functions may be delegated at the option of the NASA installation personnel responsible for the transportation and packaging function. When such delegations are contemplated on a particular contract, special instructions shall be furnished to the NASA contracting officer on NASA Form 1430A. The form shall also:

(1) Specify the limit of the value of Government bills of lading that may be issued without further consent of the NASA contracting officer and

(2) Provide appropriate funding information.

(d) *Property administration and plant clearance.* Property administration and plant clearance are ordinarily delegated by NASA to DOD pursuant to FAR 42.302. When these functions are delegated, special instructions prepared and distributed by the Headquarters Logistics Management Office, Code JLG, should be issued to the contract administration office. Property administration and plant clearance are typically retained, however, and performed by NASA when the contract work is to be performed at a NASA installation. When retained, the functions should be performed in accordance with subpart 1845.72.

(e) *Services not requiring letters of delegation.* (1) When it is desired that a contract administration or audit office perform services that precede the award of a contract, such as cost, price, or technical evaluations (but exclusive of pre-award surveys), NASA Form

1434, Letter of Request for Pricing-Audit-Technical Evaluation Services, shall be used. Pre-award surveys shall be requested on SF 1403, Pre-award Survey of Prospective Contractor (General). Oral requests made to contract administration offices to expedite these services are authorized, but shall be confirmed in writing immediately through the use of NASA Form 1434 or SF 1403, as appropriate.

(2) Pre-award and post-award services, such as verification of labor and overhead rates, and furnishing of similar information readily available within contract administration and audit offices and not normally subject to reimbursement by NASA, may be obtained either orally without written confirmation or through the use of NASA Form 1434, as appropriate.

(f) *Contractor Purchasing System Reviews.* When delegating contract administration to a DOD contract administration office under FAR 42.202 and 42.302(a)(50), the NASA contracting officer shall include in the letter of delegation of contract administration functions a required for the contract administration office to provide the NASA contracting officer with:

(1) Adequate advance notification of scheduled CPSRs, to allow for the necessary NASA coordination of participation; and

(2) One copy of each CPSR report.

[54 FR 28299, July 5, 1989, as amended at 56 FR 32118, July 15, 1991; 57 FR 840, Jan. 9, 1992; 57 FR 40855, Sept. 8, 1992; 57 FR 58725, Dec. 11, 1992; 58 FR 51141, Sept. 30, 1993; 60 FR 16062, Mar. 29, 1995]

1842.202-71 Delegations to audit offices.

The following procedures apply when delegations are made to audit offices:

(a) NASA installations shall utilize the services of other Government audit organizations for performance of contract cost audit and other audit functions, except when audits will be performed by NASA auditors. The Defense Contract Audit Agency (DCAA) has been designated as the DOD agency responsible for the performance of audit functions for NASA contracts, except those awarded to educational institutions for which other agencies have audit cognizance under OMB Circular

No. 88, those with Canadian contractors (see paragraph (d) of this section), and those for which NASA will perform audits. To ensure that audit services are performed expeditiously, audit delegations shall be sent to the appropriate audit office immediately after execution of all cost-reimbursement, labor-hour, and time-and-materials contracts and all fixed-price contracts containing cost-reimbursement or price adjustment clauses. Audit functions include but are not limited to contract cost and price audits, estimating systems surveys, reviews of accounting systems (see also 1815.871(b)), and approval of vouchers for provisional payment.

(b)(1) Delegations shall be sent to cognizant audit offices as listed in the Defense Contract Audit Agency Directory (Headquarters and Field Offices) or in other Government agency directories.

(2) Audit responsibilities for the Department of Health and Human Services (HHS) do not include reviewing and processing vouchers. Consequently, where audit responsibility has been delegated to HHS under OMB Circular No. A-88, contracts shall not designate HHS as the billing office for invoice submission. Instead, contracts should direct invoices to the office administering the contract or as otherwise arranged (see SF 26, Block 10, and SF 33, Block 23).

(c)(1) NASA Form 1433, Letter of Audit Delegation, shall be used to delegate the audit function and to amend previous delegations. Distribute copies of the contract and NASA Form 1433 as follows:

(i) Audit office: One copy of the contract and three NASA Forms 1433.

(ii) Contractor: One NASA Form 1433.

(iii) Cognizant NASA fiscal or financial management office: One NASA Form 1433.

(2) When HHS is designated as the audit office, item 12 on NASA Form 1433 shall be marked "Not applicable."

(d)(1) For contracts with the Canadian Commercial Corporation (CCC), audits are automatically arranged by the Department of Defense Production (Canada) (DDP) in accordance with agreements between NASA and DDP. Audit reports are furnished to DDP.

Upon advice from DDP, CCC will certify the invoice and forward it with Standard Form 1034, Public Voucher, to the contracting officer for further processing and transmittal to the fiscal or financial management officer.

(2) For contracts placed directly with Canadian firms, audits are requested by the contracting officer from the Audit Services Branch, Comptroller of the Treasury, Department of Finance, Ottawa, Ontario, Canada. Invoices are approved by the auditor on a provisional basis pending completion of the contract and final audit. These invoices, accompanied by SF 1034, are forwarded to the contracting officer for further processing and transmittal to the fiscal or financial management officer. Periodic advisory audit reports are furnished directly to the contracting officer.

(3) Audits performed by the Audit Services Branch are normally conducted under DDP regulations.

1842.202-72 Delegations to security offices.

NASA's policies and procedures on security are set forth in NMI 1600.2, NASA Security Program. Contracting officers shall delegate responsibility for administering the Industrial Security Program (which has been designated as an administrative contracting officer (ACO) responsibility in Appendix C, Industrial Security Regulation, DOD 5220.22R, see also FAR 42.302(a)(20)) to DOD unless the contractor will perform the classified contract on a NASA installation or the classified work has been "carved-out." (A "carve-out" is defined in Section 1, paragraph 3, item f.1., of the DOD Industrial Security Manual for Safeguarding Classified Information, September 1987, DOD 5220.22M, as a classified contract issued in connection with an approved Special Access Program in which the Defense Investigative Service has been relieved of inspection responsibility in whole or in part.) The basis for DOD's performance of administrative contracting officer responsibility for the Industrial Security Program on NASA contracts is a NASA-DOD Agreement. The contracting officer shall specifically identify security functions delegated to DOD or to an-

other NASA installation (see 1842.171) on NASA Form 1430A.

[54 FR 28299, July 5, 1989, as amended at 59 FR 12198, Mar. 16, 1994]

1842.203 Retention of contract administration.

The assignment of contract administration is optional for the contracts and situations listed below:

(a) Research and development study contracts not involving deliverable hardware or Government property in the hands of contractors.

(b) All contracts with delivery schedules of 90 days or less.

(c) Purchase orders having no Government source inspection requirements.

(d) Work performed at the installation awarding the contract.

(e) Contract work performed in the vicinity of the installation awarding the contract for which DOD contract administration services are not reasonably available.

1842.270 Contracting officer technical representative (COTR) delegations.

(a) A contracting officer may appoint another Government employee to act as the contracting officer's authorized technical representative in managing the technical aspects of a particular contract. If necessary, the contracting officer may appoint an alternate COTR to act during short absences of the COTR; the policies and procedures for COTRs also shall apply to alternate COTRs. Technical organizations are responsible for ensuring that the individual they recommend to the contracting officer possesses training, qualifications and experience commensurate with the duties and responsibilities to be delegated and the nature of the contract. The contracting officer shall ensure that the duties and responsibilities delegated do not exceed the limitations at 1801.670(b).

(b) COTRs shall be designated by name and position title (see the 1801.670(b) prohibition against delegating COTR duties solely to a position rather than to a named individual). Each COTR appointment shall be in writing and shall clearly define the purpose and limitations of the COTR's authorities, duties and responsibilities.

NASA Form 1634, Contracting Officer Technical Representative (COTR) Delegation, shall be used to appoint COTRs. The COTR delegation shall be signed by the cognizant contracting officer, or at any level above that contracting officer (see 1801.670(b)), and shall state that the duties and responsibilities may not be redelegated by the COTR and that the COTR may be held personally liable for unauthorized acts. (However, this does not prohibit the COTR from receiving assistance for the purpose of monitoring contractor progress and gathering information.) When an individual is appointed as a COTR on more than one contract, separate delegations shall be issued for each contract. A separate NASA Form 1634 will be used to appoint an alternate COTR; alternates may act only during official absences of the COTR, such as leave, TDY or other special assignments. The delegated duties and responsibilities of the alternate may not exceed those of the COTR.

(c) A COTR delegation remains in effect throughout the life of the contract unless cancelled in writing by the cognizant contracting officer or at any level above that contracting officer. The contracting officer may modify the delegation only by issuance of a new delegation cancelling and superseding the existing delegation.

(d) A COTR shall not be authorized to initiate procurement actions by use of purchase orders, or to place calls or delivery orders under indefinite-delivery contracts or basic ordering agreements, or in any way cause a change to the contract or increase the Government's financial obligations. A COTR shall not be authorized to award, agree to, or sign any contract or modification or in any way obligate the payment of money by the Government. The COTR is not authorized to issue technical direction unless the clause at 1852.242-70, Technical Direction, prescribed in 1842.7001, is included in the contract and the authorization is specifically listed in paragraph 3(m) of the COTR delegation letter (NASA Form 1634). However, delegations may be made to construction contract COTRs to sign emergency change orders with an estimated value not to exceed the value specified in writing by the con-

tracting officer in the NASA Form 1634 but in no event to exceed \$25,000, on-site at construction sites, if sufficient funds have been previously certified to cover the emergency change. After issuing an emergency change order, the COTR shall notify the contracting officer as soon as possible, in person or telephonically, and subsequently provide a written determination supporting the need for the action.

(e) The contracting officer shall send the original and one copy of the COTR delegation letter to each COTR, who shall acknowledge receipt and accept the delegation by signing the original and returning it to the contracting officer. The original of the COTR delegation letter shall be filed in the applicable contract file. Copies of the signed COTR delegation letter shall be distributed to the contractor and to each cognizant contract administration office. Acknowledgement and distribution for terminations of COTR delegations and COTR delegations which revise authority, duties and responsibilities shall follow the same rules.

(f) The proposed COTR (and alternates) shall be trained in the duties, responsibilities, and authority of the role of the COTR. That mandatory training shall include, at a minimum, the following core topic areas: contracting authority; procurement integrity; contract modifications; surveillance plans; contracting for inherently governmental functions, personal services, and NASA policy on the acquisition of services; the Service Contract Act; the Anti-Deficiency Act; contract financial management; the "Changes" clause; the "Disputes" clause; the "Inspection" clause; Government property and policy procedures; and the "Limitation of Funds" and "Limitation of Cost" clauses. Procurement Officers are responsible for assuring that the course(s) utilized by their installation address the mandatory core topics in sufficient detail for the purpose of COTR training.

(g) The contracting officer shall verify that the COTR has received the mandatory training before signing the NASA Form 1634. Contracting officers shall terminate COTR delegations of COTRs who have not met the above training requirements by April 1, 1995.

If, however, an urgent need arises for the appointment of a COTR and no trained and otherwise qualified individual is available, then the Procurement Officer may make a temporary COTR appointment not to exceed six months, which may not be extended by more than six months. Temporary appointments must be so identified and clearly reflect the appointment expiration date. No technical direction may be issued by a COTR serving under a temporary appointment. If a COTR serving under a temporary appointment believes that technical direction should be issued to the contractor, the COTR shall so advise the contracting officer and provide such assistance regarding the proposed direction as the contracting officer may require.

[59 FR 21667, Apr. 26, 1994]

Subpart 1842.3—Contract Administration Office Functions

1842.302 Contract administration functions.

The cognizant CAO shall perform the additional contract administration functions listed below:

- (a) Determine billing rates and final indirect cost rates.
- (b) Issue cure and show cause letters after approval of the NASA contracting officer.
- (c) Monitor the contractor's system for control of overtime.
- (d) Assure that overtime compensation is in accordance with the terms of the contract, or in the absence of contractual coverage, that any excepted overtime charged is reasonable and properly allocable.
- (e) Negotiate changes to interim billing prices when authorized by the NASA contracting officer.

1842.302-70 Modified functions.

In connection with the functions listed at FAR 42.302(a)(11)(ii) and (iii), the following exception applies: for those contractors with whom advance agreements of the type discussed in FAR 31.205-18 are negotiated, the Government contracting officer responsible for the agreements shall have full authority for determinations related to CAS 420.

Subpart 1842.7—Indirect Cost Rates

1842.705 Final indirect cost rates.

1842.705-70 NASA Policy.

(a) Since many NASA contractors are under DOD's final overhead rate determination procedure, NASA's policy is to participate jointly with DOD for those companies where NASA has a major financial interest. The NASA participant shall be a representative from that installation having the predominance of NASA work.

(b) When NASA has been assigned the final indirect cost rate determination authority, settlement of indirect costs shall be conducted by the cognizant NASA contracting officer (normally from the installation providing the preponderance of NASA funding).

(c) Final indirect cost rates are to be established in accordance with FAR 42.705 unless quick-closeout procedures are used, in which case FAR 42.708 and NFS 1842.708 are to be followed.

[54 FR 28299, July 5, 1989, as amended at 57 FR 840, Jan. 9, 1992]

1842.708 Quick-closeout procedure.

1842.708-70 NASA policy.

The use of quick-closeout procedures is strongly encouraged for contracts that are physically complete, the amount of unsettled indirect costs applicable to any one contract does not exceed \$500,000, and an individual contract's value, excluding fee, is not greater than \$2,000,000. Quick closeout may be used for contracts above \$2,000,000 with the prior approval of the installation procurement officer. The \$2,000,000 contract limitation supersedes the 15 percent parameter of FAR 42.708(a)(2)(ii), which does not apply to NASA.

[56 FR 12459, Mar. 26, 1991]

1842.708-71 Factors to be considered.

Factors to be considered in deciding whether quick closeout is appropriate, include:

- (a) Whether the use of quick closeout will adversely affect the negotiation of final indirect cost rates in those cases

where the responsibility for negotiating indirect cost rates has been delegated or falls under the cognizance of another agency.

(b) Prior experience with the contractor, for example, the amount of questioned and/or disallowed costs for prior fiscal years.

(c) Whether there are any outstanding Cost Accounting Standards or accounting system deficiencies that would have a bearing on the determination of direct costs and final indirect cost rates.

(d) The extent of the contractor's Government contracting experience.

(e) The number of years final indirect costs have not been settled.

(f) The amount of unaudited contractor claimed costs (direct and indirect) for contract(s) being considered.

(g) The number and value of other NASA contracts with the contractor having unaudited costs for the same fiscal years.

(h) Whether audits will be performed and/or indirect cost rates finalized within a reasonable time. Audits are not to be requested if a determination is made to use quick closeout.

[56 FR 12459, Mar. 26, 1991]

1842.708-72 Procedures.

After a decision is made that the use of quick closeout is appropriate, the contracting officer shall conduct the following:

(a) Seek a written agreement from the contractor to participate in the quick-closeout process under FAR 42.708 for the selected contract(s). Also, request the contractor to submit a final voucher and a summary of all costs by cost element and fiscal year for the contract(s) in question, as well as a copy of the contractor's final indirect cost rate proposal for each fiscal year quick closeout is involved.

(b) Notify the cognizant audit activity in writing regarding the decision to use quick closeout. Identify the contract(s) in question and request that they provide the contractor's indirect cost history covering a sufficient number of fiscal years to see the trend of claimed, audit question, and disallowed costs. Request this information from the contractor only when the cognizant audit activity is unable to provide the

information. In all cases, request the cognizant audit activity to provide any information that could adversely impact the decision to use quick-closeout procedures. The quick-closeout process should not proceed without such a response.

(c) Review the contract(s) for indirect cost rate ceilings and any other contract limitations, as well as the rate history information obtained from the contractor or the cognizant audit activity, and develop a negotiation position.

(d) Based on an analysis of all the available information, final indirect cost rates should be established using one of the following rates:

(1) The contracts ceiling indirect cost rates, if applicable, and if less than paragraphs (d) (2) through (6) of this section.

(2) The contractor's claimed actual rates adjusted based on the contractor's indirect cost history, if less than paragraphs (d) (3) through (6) of this section.

(3) Recommended rates from the cognizant audit agency, the local pricing office, another installation pricing office, or other recognized knowledgeable source.

(4) The contractor's negotiated billing rates, if less than paragraph (d) (5) or (6) of this section.

(5) The previous year's final rates.

(6) Final rates for another fiscal year closest to the period for which quick-closeout rates are being established.

(e) If an agreement is reached with the contractor, obtain a release of all claims and other applicable closing documents.

(f) For those contracts where the indirect cost rate negotiation function was delegated or falls under the cognizance of another agency, send a copy of the agreement to that office.

(g) If agreement cannot be reached with the contractor, a determination shall be made as to whether a final contracting officer decision should be issued, or whether the closeout procedures specified in FAR 4.804 and NFS 1804.804 will be followed.

[56 FR 12459, Mar. 26, 1991]

Subpart 1842.8—Disallowance of Costs

1842.801 Disallowance of costs.

(a) Following a prompt and careful review of the facts and circumstances leading the auditor to initiate the NASA Form 456, Notice of Contract Costs Suspended and/or Disapproved, and after coordination with other NASA and federal agency contracting officers administering contracts with the same contractor under which a NASA Form 456 or a DCAA Form 1 has been issued for the same items of cost, the NASA contracting officer shall take one of the following actions:

(1) Countersign the NASA Form 456 disapproving the costs.

(2) Countersign the NASA Form 456 suspending the costs.

(3) Issue a new NASA Form 456 suspending the costs rather than disapproving them pending resolution of the issues.

(4) Have the contractor issue a new voucher removing the costs in question from its claim and return the NASA Form 456 to the auditor unsigned.

(5) Return the unsigned NASA Form 456 to the auditor with a detailed explanation of why the suspension or disapproval is not being countersigned, and process the contractor's claim for payment.

(b) When more than one NASA contract is affected by a notice, the NASA contracting officer with the largest amount of contract dollars affected is responsible for coordination on the NASA Form 456 with the other affected contracting officers, including those of other federal agencies, listed in the notice.

(c) The NASA contracting officer, when in agreement with the NASA Form 456 initiated by the auditor, shall assign a notice number and shall countersign the form. An original and three copies (which includes two acknowledgement copies, one each for return to the contracting officer and the auditor) of the form shall be sent to the contractor by certified mail, return receipt requested; one copy shall be attached to the Standard Form 1034 and each copy of the Standard Form 1034A (see 1842.7101(c)) on which the deduction for the suspension/disapproval is

made, and one copy shall be sent to the auditor.

(d) The total amount suspended or disapproved, as shown on the NASA Form 456, shall be inserted in the Differences block of the Standard Form 1034 and 1034A, citing the applicable NASA Form 456.

(e)(1) If the amount of the deduction is more than the amount of the public voucher, the installment method of deduction shall be applied to the current and subsequent public vouchers until the amount is fully liquidated. The deductions on any voucher may not exceed the voucher amount to avoid processing of a voucher in a credit amount. Public voucher(s) with zero amounts must be forwarded to the fiscal or financial management office for appropriate action.

(2) If deductions are in excess of contractor claims, recovery may be made through a direct refund from the contractor, in the form of a check payable to NASA, or by a set-off deduction from the voucher(s) submitted by the contractor under any other contract, unless those contracts contain a "no set-off" provision. If a set-off is affected, the voucher(s) from which the deduction is made should be annotated to identify the contract and appropriation affected and the applicable NASA Form 456.

[59 FR 38131, July 27, 1994]

Subpart 1842.10—Negotiating Advance Agreements for Independent Research and Development/Bid and Proposal Costs

1842.1004 Location of negotiators in a central office.

Within NASA, the central office responsible for advance agreements is the Analysis Division (Code HC), Office of Procurement, NASA Headquarters.

[54 FR 28299, July 5, 1989, as amended at 55 FR 47479, Nov. 14, 1990; 59 FR 66270, Dec. 23, 1994]

1842.1008 Administrative appeals.

The NASA administrative appeals hearing group consists of the Associate Administrator for Procurement, who

shall be chairperson, the Deputy Associate Administrator for Aeronautics and Space Technology, and the Deputy General Counsel.

[54 FR 28299, July 5, 1989, as amended at 57 FR 840, Jan. 9, 1992]

Subpart 1842.12—Novation and Change-of-Name Agreements

1842.1200 Scope of subpart.

This subpart implements and supplements FAR subpart 42.12 and prescribes policies and procedures for processing novation or change-of-name agreements initiated by either a NASA installation or by DOD on behalf of NASA.

1842.1202 Responsibility for executing agreements.

When none of the affected contracts has been assigned to an administrative contracting officer (see FAR 42.1202(a)(2)), the contracting officer shall require the contractor to provide the documentation enumerated in FAR 42.1204(c) (or, as appropriate, FAR 42.1205(a)) to the NASA installation with which it has the largest amount of unliquidated obligations. This installation shall be the "designated installation" for processing and executing novation agreements and change-of-name agreements with the contractor.

1842.1203 Processing agreements.

(a) The installation shall immediately notify the Director, Analysis Division (Code HC) of the request to execute a novation (successor-in-interest) or change-of-name agreement. The notification shall include:

- (1) The names of the firms involved,
- (2) The name of the installation that will execute the agreement, and
- (3) The type of agreement.

(b) When the Standard Form 30 required by FAR 42.1203(f)(1) is prepared, a supplemental agreement number need not be obtained for contracts other than the one under which the supplemental agreement is written. For distribution purposes, the Standard Form 30 shall also include the names and addresses of the installa-

tions with contracts subject to the agreement.

(c) After execution of the supplemental agreement, the designated installation shall—

(1) Forward one authenticated copy to Code HC; and

(2) Advise each of the affected installations by letter of the consummation of the supplemental agreement, requesting that an administrative change be issued for each affected contract and enclosing a copy of the supplemental agreement.

(d) For each affected contract, the contracting officer shall prepare an administrative change acknowledging the successor-in-interest or the change in name. The administrative change shall receive the same distribution as the affected contract. It shall indicate the nature of the transaction and the result attained and shall cite the number of the contract with which the original relevant documents and supplemental agreement are filed.

[54 FR 28299, July 5, 1989, as amended at 58 FR 51141, Sept. 30, 1993; 59 FR 66270, Dec. 23, 1994]

1842.1203-70 DOD processing of novation and change-of-name agreements on behalf of NASA.

(a) Appendix E of the NASA/DOD Agreement for Contract Administration and Contract Audit Services covers the accomplishment of novation and change-of-name agreements by DOD on behalf of NASA.

(b) Code HS shall notify installations when DOD is processing a proposed novation agreement on behalf of NASA. Within 20 days after receiving it, the installation shall submit comments to Code HS for transmittal to DOD. With the concurrence of Code HS, an installation may execute a separate agreement with the contractor. In that event, Code HS shall notify DOD accordingly, and the installation shall process a separate agreement in accordance with FAR 42.1203.

(c) Code HC shall maintain copies of agreements executed by DOD on behalf of NASA.

[54 FR 28299, July 5, 1989, as amended at 59 FR 66270, Dec. 23, 1994]

**1842.13—Suspension of Work,
Stop-Work Orders, and Gov-
ernment Delay of Work**

**1842.1305 Contract clauses. (NASA
supplements paragraph (b))**

(b) FAR 52.242–15, Stop-Work Order, shall not be used in solicitations or contracts for research performed by educational or other nonprofit institutions.

[61 FR 47081, Sept. 6, 1996]

**Subpart 1842.14—Traffic and
Transportation Management**

**1842.1405 Discrepancies incident to
shipment of supplies.**

In addition to following the applicable regulations and procedures referenced at FAR 42.1405(a), NASA personnel shall report discrepancies and adjust claims for loss of and damage to Government property in transit as prescribed in NHB 6200.1, NASA Transportation and General Traffic Management.

**Subpart 1842.70—NASA Contract
Clauses**

1842.7001 Technical direction.

The contracting officer shall insert the clause at 1852.242–70, Technical Direction, in cost-reimbursement solicitations and contracts if (1) technical direction as defined in the clause (which includes the Government's approving approaches and solutions of the contractor and shifting emphasis among work areas or tasks) is appropriate to accomplish the contract requirements effectively, (2) the statement of work is conducive to technical direction by the Government, and (3) technical direction is to be in writing. Identify this duty in paragraph 3(m), "Other duties as follows" of NASA Form 1634 (see 1842.270). This clause addresses COTR responsibilities that are in addition to those discussed in paragraphs 3(a)–(l) of the COTR delegation and is not intended to be followed in fulfilling those other responsibilities. The clause is not authorized for use with institutions of higher education and other non-profit organizations.

1842.7002 Travel outside of the United States.

The contracting officer shall insert the clause at 1852.242–71, Travel Outside of the United States, in cost-reimbursement solicitations and contracts where a contractor may travel outside of the United States and it is appropriate to require Government approval of the travel.

[54 FR 28299, July 5, 1989, as amended at 55 FR 27089, June 29, 1990]

1842.7003 Observance of legal holidays.

(a) The contracting officer shall insert the clause at 1852.242–72, Observance of Legal Holidays, in contracts when notification to the contractor of Government holidays would be useful in administering the contract.

(b) The clause shall be used with its Alternate I in cost reimbursement contracts when work will be performed at a NASA installation and it is desired that contractor employees not have access to the installation during Government holidays. This alternate may be appropriately modified for fixed-price contracts.

(c) The clause may be used with its Alternate II in cost-reimbursement contracts when (1) Alternate I is used, (2) work will be performed at a NASA installation, and (3) it is desired that administrative leave be granted contractor personnel in special circumstances, such as inclement weather or potentially hazardous conditions.

[54 FR 28299, July 5, 1989, as amended at 54 FR 39374, Sept. 26, 1989; 56 FR 48748, Sept. 26, 1991]

**Subpart 1842.71—Submission of
Vouchers**

1842.7101 Processing of vouchers.

(a) Under the authority of FAR 42.803, NASA had designated the contract auditor as the contracting officer's representative for—

(1) Promptly examining reimbursement vouchers received directly from contractors,

(2) Promptly transmitting vouchers approved for provisional payment to the cognizant fiscal or financial management officer, and

(3) Regarding costs claimed, but not considered allowable, preparing and sending to the cognizant contracting officer NASA Form 456, Notice of Contract Costs Suspended and/or Disapproved. Normally, the NASA Form 456 is initiated by the auditor; however, the contracting officer also may initiate it or direct its initiation. In accordance with any instructions received from the contracting officer, the contract auditor shall promptly examine and approve (but see paragraph (b) of this section) separate fee vouchers and fee portions of vouchers for provisional payment under the contract. After examination, the auditor shall forward completion vouchers to the contracting officer for approval and transmittal to the cognizant fiscal or financial management officer.

(b) When the audit functions are delegated, special instructions may be issued to the contract auditor to—

(1) Require submission of separate vouchers for reimbursable costs and for payment of earned fee; and/or

(2) Reserve to the contracting officer approval of separate fee vouchers and all vouchers submitted by contractors performing at a NASA installation.

(c) Unless otherwise notified, the contractor shall be required to submit public vouchers to the auditor as follows:

(1) One original Standard Form 1034, Standard Form 1035, or equivalent contractor's attachment shall be submitted.

(2) Seven copies of Standard Form 1034A, Standard Form 1035A, or equivalent contractor's attachment shall be submitted.

(3) The contractor shall mark Standard Form 1034A copies 1, 2, 3, 4, and such other copies as may be directed by the contracting officer by inserting in the memorandum block names and addresses as follows:

(i) Copy 1, NASA contracting officer.

(ii) Copy 2, cognizant audit office.

(iii) Copy 3, Contractor.

(iv) Copy 4, Contract administration office.

(v) Copy 5, project management office (when required by the NASA contracting officer).

(4) The auditor shall retain an unpaid copy of the voucher.

(5) When a voucher contains one or more individual direct freight charges of \$100 or more, an additional copy of Standard Form 1034A and Standard Form 1035A shall be submitted and marked for return to the contractor after payment. This copy shall be transmitted quarterly by the contractor with the freight bills to the General Services Administration. When a voucher is identified as the "Completion Voucher," an additional copy shall be submitted for transmittal to the NASA contracting officer.

(d) When necessary, the contracting officer should consult with the auditor or the financial management officer concerning preparation, examination, and payment of vouchers. Functions to be performed by auditors and financial management and fiscal office personnel during the examination of vouchers are in FMM 9630.

[57 FR 840, Jan. 9, 1992]

Subpart 1842.72—NASA Contractor Financial Management Reporting

SOURCE: 59 FR 23801, May 9, 1994, unless otherwise noted.

1842.7201 General.

(a) *Contracting officer responsibilities.*

(1) Successful cost management will only result from a team approach among the procurement, financial/resources management, and project management communities. Contracting Officers should play a primary role in managing cost performance. They must ensure contracts require cost reporting consistent with both policy requirements and project needs. Contracting Officers should monitor contractor cost reports on a regular basis to ensure cost data reported is accurate and timely. Contracting Officers should independently review cost report data. Adverse trends or discrepancies discovered in cost reports should be pursued through discussions with financial and project team members.

(2) Whenever cost performance threatens contract performance, Contracting Officers shall require corrective action plans from the contractors.

When contracts are modified to accommodate contractor-responsible cost performance problems, consideration is required from the contractor; e.g., reduced fee earning potential.

(b) *Reporting requirements.* (1) Reporting utilizing NASA Contractor Financial Management Reports, the NASA

Form 533 series, is required (see NMI 9501.1, NASA Contractor Financial Management Reporting System) on cost-type, price redetermination, and fixed-price incentive contracts when the following dollar, period of performance, and scope criteria are met:

Criteria		Report format		
Contract value/scope	Period of performance	533M	533Q	533P
\$500K up to \$1M/all	1 year or more	Required	Optional	Optional.
\$1,000,000 and greater/all	Less than 1 year	Required	Optional	Optional.
\$1,000,000 and greater/all	1 year or more	Required	Required	Optional.
\$25,000,000 and greater/supply contracts	1 year or more	Required	Required	Required.

(2) Where it is probable that a contract will ultimately meet the criteria through change orders, supplemental agreements, etc., the reporting requirement must be implemented in the contract as initially awarded.

(3) Performance analysis reporting using the 533P format is mandatory for supply contracts over \$25,000,000. Although non-supply contracts over \$25,000,000 require only 533M and 533Q reporting, Performance Measurement System reports can be an effective management tool and should be routinely considered as a possible requirement for non-supply contracts over \$25,000,000.

(c) *Substitution of contractor reports.* With the Contracting Officer's approval, the contractor's internal automated printout reports may be substituted for the 533 reporting formats only if the substitute reports contain all the data elements that would be provided by the corresponding 533's. If substitution is made for the 533P report, schedule data must be reported as of same date and in the same reporting categories as the financial data. The Contracting Officer shall coordinate any proposed substitute with the installation financial management office.

(d) *Contract requirements.* (1) The reporting requirements, including a description of the reporting categories, shall be detailed in the procurement request, and the reports shall be required by inclusion of the appropriate clause or clauses prescribed in 1842.7202. The contract schedule must also indicate the addressees and num-

ber of copies. The reporting categories specified shall be coordinated with the Installation Financial Management Office to ensure that data required for agency cost accounting will be provided by the reports. Reporting due dates shall be in accordance with the provisions of NHB 9501.2, Procedures for Contractor Reporting of Correlated Cost and Performance Data. No changes to these submission requirements shall be negotiated except in unusual circumstances and no due dates shall be later than the date by which the Installation Financial Management Office requires the reports for entering cost data in the accounting system.

(2) The contractor shall be required to submit an "Initial Report," in complete detail, time-phased for the expected life of the contract, within 10 days after authorization to proceed has been granted, unless otherwise specified by the Contracting Officer. Regular monthly and quarterly reporting will begin within 30 days of contract award.

(e) *Deviations.* Deviations from the financial management reporting provisions of the clauses prescribed herein will require approval in accordance with subpart 1801.4. The Associate Administrator for Procurement will obtain concurrences of the Director, Financial Management Division, and the Associate Administrator of the cognizant Headquarters Program Office.

1842.7202 Contract clauses.

(a) The clause at 1852.242-73, NASA Contractor Financial Management Reporting, shall be used when any of the NASA Form 533 series of reports are required from the contractor.

(b) The clause at 1852.242-74, NASA Contractor Financial Management Reporting (Performance Analysis Report), shall be used in conjunction with the clause at 1852.242-73 when the Monthly Contractor Financial Management Performance Analysis Report (533P) is required from the contractor.

Subpart 1842.73—Audit Tracking and Resolution**1842.7301 NASA external audit follow-up system.**

(a) This section implements OMB Circular No. A-50, NASA Management Instruction (NMI) 9970.1A, Audit Followup, and NASA Audit Followup Handbook 9970.2, which provide more detailed guidance. Recommendations for external audits (contracts and OMB Circulars No. A-128, Audits of State and Local Governments, and A-133, Audits of Institutions of Higher Learning and Other Non-Profit Institutions) shall be resolved by formal review and approval procedures analogous to those at 48 CFR 1815.807-71.

(b) The external audit followup system tracks all contract and OMB Circular A-128 or A-133 audits where NASA has resolution and disposition authority. The objective of the tracking system is to ensure that audit recommendations are resolved as expeditiously as possible, but at a maximum, within 6 months of the date of the audit report.

(c) (1) The identification and tracking of contract audit reports under NASA cognizance are accomplished in cooperation with DCAA by means of the DCAA form, Contract Audit Followup Summary Sheet. The use of this form by DCAA and NASA is covered in Chapter 6 of the NASA Audit Followup Handbook.

(2) Identification and tracking of A-128 and A-133 audit reports are accomplished in cooperation with the NASA Office of the Inspector General (OIG) by means of a transmittal memorandum.

A transmittal memorandum is sent by the OIG to the procurement officer of each NASA field installation having an award (contract, grant, or other agreement) covered by the audit report. The transmittal memorandum will identify whether there were any audit findings.

(d) (1) Chapter 6 of the NASA Audit Followup Handbook identifies which contract audit reports are reportable semiannually to Code HC.

(2) Only trackable A-128 and A-133 audit reports involving the following shall be reported semiannually to Code HC—

(i) A significant management control issue; or

(ii) For an individual NASA award, either the lower of 10 percent or \$10,000 of the costs incurred in the period covered by the audit are questioned; or for institution-wide issues, the lower of 10 percent or \$10,000 of the total costs incurred involving Government funds for the period covered by the audit are questioned.

(e) (1) The resolution and disposition of contract audits is covered by Chapter 6 of the NASA Audit Followup Handbook.

(2) The resolution and disposition of A-128 and A-133 are handled as follows:

(i) Audit findings pertaining to an individual NASA award are the responsibility of the procurement officer administering that award.

(ii) Audit findings having an institution-wide impact are the responsibility of the cognizant Federal agency. OMB's January 6, 1986, FEDERAL REGISTER Notice (51 FR 552), titled "Federal Agencies Responsible for Cost Negotiation and Audit of State and Local Governments," provides cognizant agency assignments for OMB Circular A-128. For organizations subject to OMB Circular A-133, the cognizant agency is either assigned pursuant to OMB Circular A-88, "Indirect Cost Rates, Audit, and Audit Followup at Educational Institutions," or if not formally assigned, it is based on which Federal agency provided the largest amount of funds for the audited period. In such cases where NASA is the cognizant Federal agency, audit resolution and disposition is the

responsibility of the procurement officer for the “cognizant field installation,” i.e., the field installation having the largest total award dollar amount for the audited period. A copy of the memorandum dispositioning the findings shall be provided by each field installation having resolution responsibility for the particular report to the OIG Center office within whose geographic area of responsibility the audited organization is located.

[60 FR 16062, Mar. 29, 1995]

PART 1843—CONTRACT MODIFICATIONS

Subpart 1843.2—Change Orders

Sec.

1843.205 Contract clauses.

1843.205-70 NASA contract clause.

1843.270 Originating and accepting engineering change proposals.

Subpart 1843.3—Forms

1843.301 Use of forms.

Subpart 1843.70—Undefinitized Contract Action

1843.7001 Definitions.

1843.7002 Policy.

1843.7003 Procedures.

1843.7004 Exceptions.

1843.7005 Definitization.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 54 FR 28306, July 5, 1989, unless otherwise noted.

Subpart 1843.2—Change Orders

SOURCE: 55 FR 47479, Nov. 14, 1990, unless otherwise noted.

1843.205 Contract clauses.

As authorized in the preface of clauses FAR 52.243-1—Changes-Fixed Price; FAR 52.243-2—Changes-Cost Reimbursement; and FAR 52.243-3—Changes-Time-and-Material or Labor-Hours, the period within which a contractor must assert its rights to an equitable adjustment may be varied not to exceed 60 calendar days.

1843.205-70 NASA contract clause.

(a) The contracting officer may insert in contracts a clause substantially the same as 1852.243-70, Engineering

Change Proposals (ECP), when impact evaluation information is required. Paragraphs (c) and (d) of the basic clause and Alternate I of the clause shall be changed to reflect the specific type of contract. A local format may be substituted for the MIL-STD-973 format.

(b) If it is desirable to preclude a large number of small-dollar, contractor-initiated engineering changes and to reduce the administrative cost of reviewing them, the contracting officer shall use the clause with its Alternate I.

(c) If the contract is a cost-reimbursement contract, the contracting officer shall use the clause with its Alternate II.

[55 FR 47479, Nov. 14, 1990, as amended at 58 FR 51141, Sept. 30, 1993]

1843.270 Originating and accepting engineering change proposals.

(a) Either party to the contract may originate engineering changes. The originator must submit to the contracting officer detailed technical, cost, and schedule information documenting the proposed change. This information will be used by the Government project manager in deciding whether or not to implement the change and by the contracting officer to price the change in advance, when possible.

(b) Contractual implementation of an approved ECP may occur by either a supplemental agreement or, if appropriate, as a written change order to the contract.

Subpart 1843.3—Forms

1843.301 Use of forms.

(a) FAR 43.301(a)(1) requires the use of Standard Form 30, Amendment of Solicitation/Modification of Contract, for administrative changes such as changes in accounting and appropriation data. Contract modifications should include only fund citations (i.e., accounting and appropriations data) applicable to the particular modification. The cumulative inception-to-date listing of funding citations for previous modifications is discouraged unless there is a contractual need requiring

such a listing. Modifications should include, as a minimum, the prior total funding, the change taking place, and a new total value.

(b) When an internal administrative change of funding citations relative to a contract is required, the official determining the need for the change shall request it, obtain applicable installation approvals, and then forward documentation to the financial management officer and the contracting officer to facilitate it. An administrative modification of the contract is not required unless it affects the billing or reporting requirements placed upon the contractor.

(c) These procedures do not reduce the contracting officer's responsibility for ensuring that obligations are made only on the basis of appropriated funds.

Subpart 1843.70—Undefinitized Contract Action

SOURCE: 59 FR 23803, May 9, 1994. Redesignated at 59 FR 29964, June 10, 1994, unless otherwise noted.

1843.7001 Definitions.

Undefinitized contract action (UCA) means a unilateral or bilateral contract modification or work/task order in which the final price or estimated cost and fee have not been negotiated and mutually agreed to by NASA and the contractor. (Issuance of letter contracts and modifications to letter contracts are governed by subpart 1816.6.)

1843.7002 Policy.

Undefinitized contract actions shall be executed by contracting officers on an exception basis and shall be limited to the Agency's minimum urgent requirements. The contract file for all UCAs shall be documented to justify issuance and shall include a Government estimate for the changed requirements.

1843.7003 Procedures.

(a) Issuance of undefinitized contract actions with a Government estimated cost or price over \$1,000,000 must be approved in writing by the Center Director, except that Space Station undefinitized contract actions with a Government estimate over \$10,000,000 must be approved in writing by the

Deputy Associate Administrator for Space Flight (Space Station). These approval authorities are not delegable. Issuance of undefinitized contract actions with a Government estimated cost or price less than or equal to \$1,000,000 shall also be minimized but may be approved on an exception basis in accordance with Center procedures.

(b) (1) Undefinitized contract actions exceeding \$1,000,000 approved by the Center Director shall be issued as bilateral agreements duly executed by an authorized representative of the contractor. These bilateral agreements shall set forth a ceiling price or "not to exceed" estimated cost figure for the changed contractual requirements. For fixed price contracts the negotiated price for the changed contract requirements shall not exceed the established ceiling price. In the case of cost type contracts any costs eventually negotiated for the changed requirements in excess of the "not to exceed" estimated cost figure shall be non-fee bearing. The ceiling price or "not to exceed" estimated cost figures shall be separately identified in the UCA instrument from any increases in the estimated cost or Limitation of Government Liability.

(2) The Center Director or Deputy Associate Administrator for Space Flight (Space Station) may waive the ceiling price or "not to exceed" estimated cost figure and bilateral agreement requirements prior to UCA issuance on the basis of urgency. This waiver authority is not delegable. Any waivers shall be documented in the contract file.

(c) The changed contractual requirements set forth in the UCA shall be clearly defined and shall be limited to the minimum effort required to satisfy urgent program requirements while a cost proposal is prepared, analyzed and negotiated.

(d) For undefinitized contract actions with a Government estimate greater than \$1,000,000 and not excepted under subpart 1843.104, a 180 day funding profile shall be obtained from the contractor and reviewed by the cognizant NASA personnel prior to execution of the undefinitized contract action.

(e) Undefinitized contract actions with a Government estimated cost or price greater than \$1,000,000 shall include a requirement that the change

1843.7004

shall be separately accounted for by the contractor to the degree necessary to provide the Contracting Officer visibility into actual costs incurred pending definitization. The Contracting Officer may waive this requirement for individual actions if there is a documented finding that such accounting procedures would not be cost effective. Any such waiver shall not affect existing NASA Form 533 or other financial reporting requirements set forth in the contract.

1843.7004 Exceptions.

(a) Exceptions to the requirement for Center Director or Deputy Associate Administrator for Space Flight (Space Station) approval for issuance of undefinitized contract actions as specified in 1843.103(a) are—

- (1) Modifications to facilities contracts;
 - (2) Modifications to construction contracts using Construction of Facilities funding;
 - (3) Urgent modifications resulting from Shuttle manifest changes or that involve immediate issues of safety or damage/loss of property;
 - (4) Modifications to decrease the contract value; or
 - (5) Modifications to letter contracts.
- (b) The contract file for any of the above modifications shall be documented to justify UCA issuance in addition to citing the appropriate exception to Center Director or Deputy Associate Administrator for Space Flight (Space Station) approval.

1843.7005 Definitization.

(a) Undefinitized contract actions should be sufficiently complete and detailed as to enable the contractor to begin immediate preparation of a cost proposal for the changed requirement. The NASA goal is to definitize UCAs within 180 days from date of issuance. This goal in no way compromises the Agency's continuing requirement for sound cost analysis, arms-length negotiations, and fair and reasonable settlements.

(b) Whenever possible, pre-change study efforts or engineering change proposals (ECPs) shall be utilized to negotiate and definitize changes prior to issuance.

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PART 1844—SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 1844.1—General

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1844.102 Policy.

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1844.102-72 New sources of scientific and technical competence.

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1844.302-70 DCMC-conducted contractor purchasing system reviews.

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1844.304-70 Surveillance.

1844.305 Granting, withholding, or withdrawing approval.

1844.307-70 Reporting.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 54 FR 28307, July 5, 1989, unless otherwise noted.

Subpart 1844.1—General

1844.102 Policy.

(a) It is NASA policy to retain consent to subcontract authority—

(1) Under fixed-price contracts required to include the clause at FAR 52.244-1;

(2) Under cost reimbursement and letter contracts required to include the clause at FAR 52.244-2;

(3) Under time-and-material and labor-hour contracts required to include the clause at FAR 52.244-3;

(4) For all subcontracts designated as requiring special surveillance. (See 1844.102-70 on special surveillance.)

(b) However, if the contracting officer considers it necessary to delegate consent to subcontract authority, the contracting officer shall—

(1) Justify in writing the rationale for such delegation;

(2) Obtain written approval of the justification from the procurement officer or a designee; and

(3) Include the approved justification in the contract file.

[57 FR 841, Jan. 9, 1992]

1844.102-70 Contracting officer designated special surveillance and consent requirements.

(a) Notwithstanding approval of a contractor's purchasing system, the contracting officer may require the contractor to obtain consent for any subcontract or class of subcontracts selected for special surveillance. Such subcontracts shall be identified in the schedule of the contract. In making subcontracts subject to special surveillance consent requirements, the contracting officer should consider specific subcontract awards, as well as any individual systems, subsystems, components, technologies, and services which would have contracting officer consent prior to being subcontracted. Any subcontract for which consent was not provided at the time of contract award, under a cost type prime contract (FAR 44.102-1(c)), for which the Government would have required cost and pricing data in accordance with FAR 15.806-2(a) (1) or (2), shall be identified for special surveillance.

(b) For each planned contract award expected to exceed \$1 million in total estimated value (inclusive of options), the contracting officer, in conjunction with the technical representative, when appropriate, shall review the information available at the time of contract award to determine whether certain subcontracts require special surveillance. At a minimum, the contracting officer review should consider such factor as—

(1) The degree of subcontract pricing uncertainties at the time of contract award;

(2) The overall quality of the contractor's approach to pricing subcontracts;

(3) The extent of competition achieved, or to be achieved, by the contractor in the award of subcontracts;

(4) Technical complexity and the criticality of specific supplies, services, and technologies on the successful performance of the contract; and

(5) The potential impact of planned subcontractors on source selection or incentive arrangements.

(c) The contracting officer shall document results of the review in the contract file, and include the requirement to obtain consent for subcontracts

identified for special surveillance in the schedule of the contract. For contract modifications and change orders, the contracting officer shall make the determination required by paragraph (b) of this section whenever the value of any subcontract resulting from the change order or modification:

(1) Is proposed to exceed \$100,000; or

(2) Is one of a number of subcontracts with a single subcontractor, under the contract, for the same or related supplies or services, that in the aggregate are expected to exceed \$100,000.

[57 FR 841, Jan. 9, 1992]

1844.102-71 [Reserved]**1844.102-72 New sources of scientific and technical competence.**

As a Government agency whose mission involves substantial Federal expenditures and use of national resources, NASA has a strong interest in helping accomplish collateral national economic goals within the framework of applicable statutory and administrative authority in a way that will not impair program effectiveness. Utilization in the space program and the accompanying development of the potential of all geographical regions will effectively contribute to achieving national goals. To advance the further development of competence and capacity of sources, NASA encourages the placing of subcontracts over wider geographic areas. To carry out these objectives, the clause at 1852.244-70, Geographic Participation in the Aerospace Program, shall be used as prescribed at 1844.170.

1844.170 NASA contract clause.

The contracting officer shall insert the clause at 1852.244-70, Geographic Participation in the Aerospace Program, in all research and development solicitations anticipated to exceed \$500,000 and in resulting contracts of \$500,000 or over to be performed within the United States.

Subpart 1844.3—Contractors' Purchasing Systems Reviews

1844.302 Requirements.

1844.302-70 DCMC-conducted contractor purchasing system reviews.

For contracts within their cognizance, NASA contracting officers shall be aware of purchasing system approval status and are encouraged to become actively involved with the Defense Contract Management Command (DCMC) in the Contractor Purchasing System Review (CPSR) process. Involvement should include the following:

(a) Verifying that CPSRs are being conducted as required for each contractor meeting the thresholds in FAR 44.302.

(b) Ensuring that purchasing system review specifically includes the business unit performing the NASA contract.

(c) Actively participating as a team member, or arranging NASA representation, on DCMC CPSRs. At a minimum, such participation or representation shall be arranged when the DCMC CPSR review involves—

(1) Contractors with major NASA programs;

(2) Contractors' business units where the total dollar value of NASA contracts is substantial; or

(3) Any contractor system where the contracting officer has special concerns.

Participation should be oriented towards reviewing those areas of NASA-specific interest within the contractor's procurement operation.

(d) Ensuring that the selected CPSR sample to be reviewed reflects the level of NASA business in the contractor's purchasing organization.

(e) Providing to the cognizant DCMC CPSR team leader any areas of special emphasis regarding the contractor's procurement operation, to ensure that the review is tailored to address any NASA concerns, in addition to complying with FAR requirements for the review format.

[57 FR 841, Jan. 9, 1992]

1844.302-71 NASA-conducted contractor purchasing system reviews.

If a NASA activity is the cognizant contract administration office, or after coordination with the cognizant DCMC CPSR office, it is determined that a CPSR is required but cannot be accomplished by DCMC, then a CPSR should be conducted by NASA personnel. The NASA CPSR team leader:

(a) May use DOD FAR Supplement, Contractor Purchasing System Review (CPSR) guidance, as a general guide to conducting the CPSR.

(b) May vary the scope of review depending on the contractor and contracts involved.

(c) Shall maintain close coordination with the cognizant ACO during CPSRs at contractors under DOD cognizance.

[57 FR 842, Jan. 9, 1992]

1844.304-70 Surveillance.

(a) In the period between complete CPSRs, NASA contracting officers shall maintain a sufficient level of surveillance to ensure contractor purchasing efforts in support of NASA contracts are accomplished in an appropriate manner and protect the interests of the Agency.

(b) Surveillance shall be accomplished primarily through performance of consent-to-subcontract reviews (see FAR 44.202). Other methods of surveillance, including periodic reviews of contractor purchasing records may also be conducted. Contracting officers shall document the results of consent-to-subcontract reviews and periodic reviews, maintaining a record of contractor subcontract or purchase order award performance on NASA contracts. Contractor performance shall be summarized on an annual basis and provided to the ACO cognizant of the contractor's purchasing system. Annual reports should summarize the number of consent reviews and other reviews conducted during the year by NASA representatives, and summarize the types and quantity of deficiencies identified during reviews, need for special reviews, and recommended areas of emphasis during future CPSRs.

[57 FR 842, Jan. 9, 1992]

1844.305 Granting, withholding, or withdrawing approval.

ACO actions related to purchasing system approval have a potential impact on NASA contracting officer consent requirements. Accordingly, NASA contracting officers should review system deficiencies documented in CPSR reports and when results of consent reviews and other sources conflict with CPSR or DOD surveillance conclusions, formally communicate such concerns to the ACO having cognizance of procurement system approval. Significant issues or significant conflicts with DOD CPSR results should be formally referred to Headquarters, Code HK.

[57 FR 842, Jan. 9, 1992, as amended at 59 FR 66270, Dec. 23, 1994]

1844.307-70 Reporting.

NASA contracting officers, when delegating contract administration to a DOD contract administration office under FAR 42.202 and 42.302(a)(50), are required by 1842.202-70(f) to include in the letter of delegation of contract administration functions a requirement for the contract administration office to provide the NASA contracting officer with adequate advance notification of scheduled CPSRs and a copy of each CPSR report.

[57 FR 842, Jan. 9, 1992]

PART 1845—GOVERNMENT PROPERTY**Subpart 1845.1—General**

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AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 54 FR 28308, July 5, 1989, unless otherwise noted.

Subpart 1845.1—General

1845.102 Policy.

(a) One reason for the policy in FAR 45.102 that contractors shall ordinarily furnish all property is that providing Government property (whether Government-furnished or contractor-acquired) increases the Government's administrative burden and requires record-keeping and personnel. Providing property may dilute the contractor's overall responsibility and weaken guarantees, end-item delivery requirements, and other contract terms. Furnishing property places NASA between the source of the property and the contractor. When NASA assumes responsibility for scheduling delivery of the property, NASA may be responsible for delays.

(b) Nevertheless, sometimes providing Government property to contractors may be essential to contract performance or otherwise advantageous to NASA. For example, furnishing standardized production property and raw materials may be necessary for uniformity of products. Furnishing Government property can reduce the production cycle by eliminating the lead time necessary for the contractor to

acquire or fabricate production property. NASA may be able to broaden its competitive base by offering property to firms unable to acquire their own, or by offering production property or critical material not generally available throughout the industry. NASA may lower contract costs by offering existing Government property or new Government property obtainable at prices lower than those available to the contractor. NASA may also provide Government property to educational or other nonprofit institutions to facilitate scientific research.

(c) NASA has several types of contract property accountability options. The selection of the combination of Government property clauses for a given contract is dependent upon variables such as whether performance is on-site at a NASA installation, contract purpose, and the degree of contractor management independence that is inherent in the statement of work (see 1845.102-70(b)).

[54 FR 28308, July 5, 1989, as amended at 54 FR 39374, Sept. 26, 1989]

1845.102-70 Procedures.

(a) The contracting officer shall, as applicable, include in each solicitation a—

(1) List of any Government property (showing location and condition), including Government-owned tooling, that will be furnished for the performance of the contract and any related special provisions;

(2) Requirement that information be furnished regarding (i) any Government-owned facilities or items of industrial equipment or special tooling requested to be used in performing the contract, (ii) their acquisition cost, (iii) identification of the Government contract under which the property is accountable, (iv) rental provisions, and (v) other relevant matters;

(3) Requirement that additional facilities that the offeror requests to be provided by the Government be described and identified by classification such as "Land", "Buildings", and "Equipment" (see subpart 1845.71); and

(4) Requirement that additional special test equipment that the offeror requests to be provided by the Government be described and its intended use,

estimated cost, and proposed location be shown.

(b) To ensure the contract property accountability option selected is appropriate for a particular contract and is in consonance with installation resources and policies regarding use of Government property, the contracting officer shall, as part of the solicitation/contract review process, provide a copy of the solicitation/contract to the installation supply and equipment management officer (SEMO) for review. It shall be the responsibility of the SEMO to provide comments or recommendations to the contracting officer within the review time specified. In circumstances where an award of a contract is contemplated, and a solicitation was not issued (e.g., contracts resulting from broad agency announcements and unsolicited proposals), the contracting officer shall provide a copy of the contract prior to award to the installation SEMO for review and comment. The contracting officer shall provide this opportunity for SEMO review and comment as a part of the solicitation/contract review process for procurements with an estimated cost over \$1,000,000 or for procurements with an estimated cost over \$50,000 (1) for work expected to be performed on-site at a NASA installation, or (2) which provide existing government property, or (3) which require contractor acquisition of Government property.

[54 FR 39374, Sept. 26, 1989, as amended at 61 FR 47083, Sept. 6, 1996]

1845.104 Review and correction of contractors' property control systems.

(a) When review of the contractor's property control system is not delegated to DOD, the NASA contracting officer or property administrator shall conduct the review as required in subpart 1845.72.

(b) In each solicitation under which use of Government property is contemplated, the contracting officer shall require the offeror to—

(1) Furnish the date of the last Government review of its property control and accounting system and describe actions taken to correct any deficiencies found;

(2) State that the offeror has reviewed, understands, and can comply with all property management and accounting procedures in the solicitation, FAR subpart 45.5, and subparts 1845.5, 1845.70, and 1845.71 of this regulation; and

(3) State whether the costs associated with paragraph (b)(2) of this section are included in its cost proposal.

1845.104-70 Contract property administration by the Government.

DOD will conduct contract property administration in accordance with their regulations and procedures and NASA special delegation instructions. When property administration is not delegated to DOD, NASA shall conduct contract property administration in accordance with subpart 1845.72.

1845.106 Government property clauses.

In addition to the applicable Government property clauses prescribed in FAR 45.106, the contracting officer shall insert the following clause(s) and provision as appropriate.

1845.106-70 NASA contract clauses and solicitation provision.

(a) The contracting officer shall insert the clause at 1852.245-70, Acquisition of Centrally Reportable Equipment, in all solicitations and contracts that include a Government property clause. See 1845.7103 and the clause at 1852.245-70 for instructions on preparing DD Form 1419.

(b)(1) The contracting officer shall insert the clause at 1852.245-71, Installation-Provided Government Property, in solicitations and contracts when Government property is to be provided to on-site contractors, and the Government will retain accountability for the property. The contracting officer shall identify in the Contract Schedule the nature and extent of such property and the installation supply and equipment management officer will make such property available to the contractor on a no-charge-for-use basis. The contracting officer shall also list in the contract the applicable installation property management directives.

(2) Contracting officers may also use the clause if Government property is

provided to off-site local support service contractors. In this case, the concurrence of the installation supply and equipment management officer must be obtained and indicated in the procurement request.

(3) To avoid diluting contractor responsibilities when they include separate procurement authority and responsibility, contracting officers may preclude such contractors from utilizing the installation's central receiving facility for receiving contractor-acquired property. To accomplish this, the contracting officer shall use the clause with its Alternate I. The contracting officer shall review the acquisitions reported by the contractor for their appropriateness, and the supply and equipment management officer shall ensure that records are established.

(4) Contracting officers shall clearly identify in a separate schedule any property provided under a Government property clause but not also subject to the clause at 1852.245-71. The contracting officer shall address any specific maintenance considerations (for example, requiring use of a central calibration facility) elsewhere in the contract.

(c) The contracting officer shall insert the clause at 1852.245-72, Liability for Government Property Furnished for Repair and Services, in fixed-price solicitations and contracts (except for experimental, developmental, or research work with educational or non-profit institutions, where no profit is contemplated) for repair, modification, rehabilitation, or other servicing of Government property, if such property is to be furnished to a contractor for that purpose. If (1) a substantial quantity of parts or material will be furnished, (2) a significant amount of scrap will result from the work to be performed, or (3) other Government property will be furnished to or acquired by the contractor, the contract will also contain the appropriate Government property clause (see FAR 45.106) and the contract Schedule shall provide that such property shall be governed by the terms of that clause. When minor repairs are obtained under small purchase procedures, the procedures of this paragraph (c) shall not

apply. Contracting officers shall not require additional insurance under the clause at 1852.245-72 unless the circumstances clearly indicate advantages to the Government.

(d)(1) The contracting officer shall insert the clause at 1852.245-73, Financial Reporting of NASA Property in the Custody of Contractors, in all cost reimbursement contracts. It shall be included in all other types of contracts when it is known at the time of award that property will be provided to the contractor or that the contractor will acquire property, title to which will vest in the Government prior to delivery of the contract products. Where all property to be provided is subject to the clause at 1852.245-71, Installation-Provided Government Property (see paragraph (b) of this section), the clause at 1852.245-73 is not required. Where the clause is not included in contracts at the time of award, if Government property is subsequently provided to a contractor, or the contractor is authorized to acquire property to which the Government takes title, the clause shall be included in the contract at that time.

(2) Paragraph (c) of the clause at 1852.245-73 permits the contracting officer to withhold payments, up to a specified dollar limit, in the event a contractor fails to submit the annual NF 1018 by the due date. This provision reflects the importance to NASA of receiving this financial data on time. Upon receipt, the information is entered into the NASA accounting system and is used in the preparation of agency annual financial statements. Therefore, timely receipt of contractor held property financial data is essential to the process. A concerted effort should be made to obtain NF 1018 reports by the due date before resorting to the payment withholding alternative.

(e) The contracting officer shall insert the clause at 1852.245-74, Contractor Accountable On-Site Government Property, in solicitations and contracts when accountability rests with an on-site contractor. The contracting officer shall obtain approval to use the clause at 1852.245-74 in lieu of the clause at 1852.245-71 from Director, Logistics Management Office (Code JLG),

NASA Headquarters. The request for approval shall be written and shall include a determination of costs that will be:

(i) Avoided (e.g., additional costs to the installation's property management systems and staffing) and

(ii) Incurred (e.g., reimbursable costs of the contractor to implement, staff, and operate separate property management systems on-site, and resources needed for performance of, or reimbursement for, property administration) under contractor accountability.

(f) The contracting officer shall insert the clause at 1852.245-75, Title to Equipment, in solicitations and contracts where the clause at FAR 52.245-2 (Alternate II) or 52.245-5 (Alternate I) is used. Insert a dollar value not less than \$5,000, based on the particular procurement, and identify the property for which vesting of title with the Government is appropriate.

(g) The contracting officer shall insert the clause at 1852.245-76, List of Government-Furnished Property, in solicitations and contracts if the contractor is to be accountable under the contract for Government property. Insert the name of the Government installation, contractor's plant, or other site(s) where the Government property will be used. Insert a description of the item(s), quantity, acquisition cost, and date the property will be furnished to the contractor.

(h) The contracting officer shall insert the clause at 1852.245-77, List of Installation-Provided Property and Services, in solicitations and contracts that authorize contractor use of on-site Government property and services, such as office space, the cafeteria, or first-aid. Insert the attachment number identifying the equipment to be made available to the contractor. Insert the name of the installation service facilities, such as a library, computer facility, or health center, that the contractor will be authorized to use. The property and services may be specified, modified, and updated to meet the needs of the particular procurement.

(i) The contracting officer shall insert the provision at 1852.245-79, Use of

Government-Owned Property, in all solicitations when Government property may be used by the contractor.

(j) The contracting officer shall insert the clause at 1852.245-80, Use of Government Production and Research Property on a No-Charge Basis, in solicitations and contracts when Government production and research property (facilities, special test equipment, or special tooling) accountable under another contract(s) is authorized for use. Insert the contract number(s) under which the Government property is accountable.

[54 FR 28308, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 58 FR 51141, Sept. 30, 1993; 60 FR 16063, Mar. 29, 1995; 61 FR 47083, Sept. 6, 1996]

1845.106-71 Plant reconversion and plant clearance.

The contracting officer must obtain the prior approval of the Associate Administrator for Procurement (Code H) for any solicitation provision or contract clause that would defer negotiation of costs for plant reconversion or plant clearance until after award.

Subpart 1845.3—Providing Government Property to Contractors

1845.301 Definitions.

Provide, as used in this subpart in such phrases as "Government property provided to the contractor" and "Government-provided property," means either to furnish, as in "Government-furnished property," or to permit to be acquired, as in "contractor-acquired property." See FAR 45.101 for definitions of *contractor-acquired property* and *Government-furnished property*.

Agency-peculiar property, (see 1845.501).

[54 FR 28308, July 5, 1989, as amended at 61 FR 47084, Sept. 6, 1996]

1845.302 Providing facilities.

1845.302-1 Policy.

(a) The procurement officer is designated to make determinations required under FAR 45.302-1(a)(4) on authorizing the use of Government facilities.

(b) When any of the conditions listed in FAR 45.302-1(d) is met, the requirements of FAR 45.302-1(a)(4) do not apply.

(c) In addition to the exceptions listed in FAR 45.302-1(a), existing NASA-owned facilities (whether contractor acquired or Government furnished) may be retained for the remainder of the contract period and furnished under any follow-on contract for the same effort if the contracting officer determines that to do so would be in the best interest of the Government, *provided that*: (1) The facilities are required to accomplish the purpose of the contract;

(2) The resulting contract contains a provision requiring the contractor to replace any of the facilities that reach the end of their useful life during the contract period, or which are beyond economical repair, if the facilities are still needed for contract performance. Such replacements shall be made with contractor-owned facilities. The contract provision shall also expressly prohibit contractor acquisitions of facility items for the Government, unless specifically authorized by the contract or consent has been obtained in writing from the contracting officer pursuant to FAR 45.302-1(a);

(3) Consideration has been given to any alternative uses by Government personnel within the agency, in consultation with the Industrial Property Officer; and

(4) The contracting officer documents the file with a detailed explanation of the circumstances which make furnishing of the facilities in the best interest of the Government.

[54 FR 28308, July 5, 1989, as amended at 57 FR 58725, Dec. 11, 1992; 59 FR 13250, Mar. 21, 1994]

1845.302-2 Facilities contracts.

Unless termination would be detrimental to the Government's interests, contracting officers shall terminate facilities contracts when the Government production and research property is no longer required for the performance of Government contracts or subcontracts. Contracting officers shall not grant the contractor the unilateral right to extend the time during which

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it is entitled to use the property provided under the facilities contract.

1845.302-3 Other contracts.

In addition to the conditions listed in FAR 45.302-3, the contracting officer may also provide facilities to a contractor under a contract other than a facilities contract if the contract is for less than 6 months or provides fewer than 6 items of plant equipment and no other facilities.

1845.302-70 Securing approval of facilities projects.

(a) Pursuant to NMI 7330.1, Delegation of Authority—Approval Authorities for Facility Projects, the contracting officer must approve facilities projects involving leasing, construction, expansion, modification, rehabilitation, repair, or replacement of real property.

(b) The contracting officer's written authorization is required before any change is made in the scope or estimated cost of any facilities project.

[54 FR 28308, July 5, 1989, as amended at 59 FR 12198, Mar. 16, 1994]

1845.302-71 Acquisition of ADPE.

Any contractor proposed acquisition of automatic data processing equipment as defined in the FIRMR shall be—

(a) Submitted on DD Form 1419, or equivalent format, through the contracting officer to the installation's ADPE staff, for screening availability; and

(b) Approved in accordance with the provisions of NASA Handbook 2410.1, Information Processing Resources Management.

[54 FR 28308, July 5, 1989, as amended at 56 FR 32119, July 15, 1991]

1845.302-72 Long-term facilities use.

For procurements in which:

(a) The proposed contract, exclusive of options, will be for a shorter period than the useful life, for the program, of any required contractor-owned or leased facilities, and

(b) The facilities are unlikely to be needed by the contractor for any purpose other than the program effort

being contracted for, see 1807.170-1(b)(10)(i).

[54 FR 28308, July 5, 1989, as amended at 56 FR 32119, July 15, 1991]

1845.302-73 Determination and findings.

(a) *Procedure.* Determination and findings (D&F) required under FAR 45.302-1(a)(4) shall be prepared by the contracting officer and approved by the procurement officer. Prior to approval of the D&F by the procurement officer, concurrence must be obtained from the Director of Administration or equivalent, to ensure that the requiring activity and the installation supply and equipment management officer agree to the use of the Government facilities by the contractor. D&Fs shall address individual types of facilities to be provided to the contractor. Reference to specific variations in quantities of items to be provided should be included in the D&F if additional requirements are anticipated. A separate D&F is required before adding new types of items or significant changes in quantity. A separate D&F is also required before adding any new work to the contract that requires additional Government facilities.

(b) *Format.* A sample format follows:

(Format)

National Aeronautics and Space
Administration, Washington, DC 20546

Determination and Findings

Decision To Provide Government Facilities

On the basis of the following findings and determinations, Government-owned facilities may be provided to *[insert the name of the contractor]* pursuant to the authority of FAR 45.302-1(a)(4).

FINDINGS

1. The *[insert the name of the contracting activity]* and the contractor (have entered)/(proposed to enter) into Contract No. *[insert the contract number]*. (Include the following information: Type of contract, contract value, and a brief description of the scope of work performed under the contract.)

2. (Justify that Government facilities are needed for performance under the contract. The justification shall demonstrate either (i) that the contract cannot be fulfilled by any other means, or (ii) that it is in the public

interest to provide the facilities. It is imperative that the justification be fully substantiated by evidence.)

3. (If the contract effort cannot be fulfilled by any other means, indicate why the contractor cannot provide the facilities. For example, due to financial constraints, the contractor has certified inability to acquire the facilities; or, even though the contractor is willing and financially able to acquire these facilities for its own account, the contractor has stated that time will not permit making arrangements to obtain timely delivery to meet NASA requirements. If timely delivery is the problem, state when the contractor will replace the Government facilities with contractor-owned facilities. Address lead-time, validate the contractor's claims, and state that private financing was sought and either not available or not advantageous to the Government. If private financing was not advantageous to the Government, provide justification. Indicate other alternatives considered and reasons for rejection.)

4. (Give a general description of the types of facilities to be provided and indicate the variation in quantities of items based on functional requirements. Explain how these facilities pertain to the scope of work to be completed. State that the contract cannot be accomplished without the specified facility items being provided. Include an estimate of the value of the facilities and a statement that no facilities items under \$10,000 unit cost will be provided unless the contractor is a nonprofit, on-site, or the facilities are only available from the Government.)

5. (Indicate whether the property will be accountable under this contract or a separate facilities contract.)

DETERMINATION

For the reasons set forth above, it is hereby determined that the Government-owned facilities identified herein will be provided to the contractor.

Procurement Officer

Date

(End of format)

[57 FR 58725, Dec. 11, 1992]

Subpart 1845.4—Contractor Use and Rental of Government Property

1845.402 Authorizing use of Government production and research property.

(a) A NASA contracting officer desiring to authorize use of Government production and research property

under the cognizance of another contracting officer shall obtain that contracting officer's concurrence. If concurrence is denied, the contracting officer shall raise the matter to a level above that of the cognizant contracting officer.

(b) NASA contracting officers having cognizance over NASA production and research property may authorize its use on contracts of other agencies if such use will not interfere with NASA's primary purpose for the property and will not extend beyond the expected expiration or completion date of the NASA contract.

1845.403 Rental—Use and charges clause.

The Directors of NASA field installations have been designated (see NMI 5101.24, Delegation of Authority—To Take Actions in Procurement, Grants, Cooperative Agreements, and Related Matters (Various Officials)) to make the determinations required by FAR 45.403(a) on modified rental rates.

1845.405 Contracts with foreign governments or international organizations.

(a) It is NASA's policy to recover a fair share of the cost of Government production and research property if such property is used in performing services or manufacturing articles for foreign countries or for international organizations.

(b) The prior written approval of the Associate Administrator for Procurement (Code H) is required for the use of Government production and research property on work for foreign countries or for international organizations. Before requesting approval, the contracting officer shall obtain the concurrence of the Director, Logistics Management Office (Code JLG), the General Counsel (Code G), and the Director, International Relations Division (Code IR).

(c) Contracting officers shall forward requests for approval to the Associate Administrator for Procurement (Code HK), along with a summary of the circumstances involved, including at least—

(1) The name of the requesting contractor;

(2) The number of the contract under which the equipment is controlled;

(3) A description of the equipment;

(4) The name of the foreign contractor and the relationship of the foreign contractor to its government or to any international organization;

(5) A description of the articles to be manufactured or services to be performed;

(6) A statement that the intended use will not interfere with the current or foreseeable requirements of the United States or require use of the equipment beyond the expected expiration or completion date of the NASA contract;

(7) A statement that the foreign government's placement of the contract directly with the contractor and the use of Government production and research property is consistent with the best interests of the United States;

(8) A statement that such use is legally authorized; and

(9) Any evidence of endorsement by another agency of the U.S. Government based on national security or foreign policy of the United States.

(d) Use, if approved, shall be subject to rent in accordance with FAR 45.403.

[54 FR 28308, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 58 FR 51141, Sept. 30, 1993; 60 FR 16063, Mar. 29, 1995]

1845.406 Use of Government production and research property on independent research and development programs.

Contractors generally will not be authorized to use Government property for independent research and development on a rent-free basis except in unusual circumstances when it has been determined by the contracting officer that—

(a) Such use is clearly in the best interests of the Government (for example, the project can reasonably be expected to be of value in specific Government programs); and

(b) The policy in FAR 45.201 is adhered to in that no competitive advantage will accrue to the contractor through such use.

1845.407 Non-Government use of equipment.

Consistent with the guidelines in FAR 45.407, the following procedures

apply to the non-Government use of equipment:

(a) Before authorizing non-Government use exceeding 25 percent, the contracting officer shall obtain the approval of the Associate Administrator for Procurement (Code HK). In addition, non-Government use of machine tools and secondary metal-forming and -cutting machines (Federal Supply Classes 3405, 3408, 3410, 3411-3419, and 3441-3449) exceeding 25 percent requires the concurrence of the Director, Logistics Management Office (Code JLG). Requests for the approval of the Associate Administrator for Procurement (Code HK) shall be submitted at least 6 weeks in advance of the projected use and shall include—

(1) The number of active equipment items involved and their total acquisition cost; and

(2) An itemized listing of active equipment having an acquisition cost of \$25,000 or more, showing for each item the nomenclature, year of manufacture, and acquisition cost.

(b) The percentage of Government and non-Government use shall be computed on the basis of time available for use. For this purpose, the contractor's normal work schedule, as represented by scheduled production shift hours, shall be used. All active equipment having a unit acquisition cost of less than \$25,000 located at any single plant may be averaged over a quarterly period. Equipment having a unit acquisition cost of \$25,000 or more shall be considered on an item-by-item basis.

(c) Approval for non-Government use shall be for a period not exceeding 1 year. Approval for non-Government use in excess of 25 percent shall not be for less than 3 months.

[54 FR 28308, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 58 FR 51141, Sept. 30, 1993; 60 FR 16063, Mar. 29, 1995; 61 FR 47084, Sept. 6, 1996]

Subpart 1845.5—Management of Government Property in the Possession of Contractors

SOURCE: 54 FR 28308, July 5, 1989, unless otherwise noted.

1845.501 Definitions.

Centrally reportable equipment (CRE) means plant equipment, special test equipment (including components), special tooling, and non-flight agency-peculiar property (including ground support equipment):

(a) Generally commercially available and used as a separate item or component of a system,

(b) Having an acquisition cost of \$1,000 or more, and

(c) Identifiable by a manufacturer and model number.

Agency-peculiar property means personal property unique to NASA aeronautical and space programs and not otherwise included in the categories of property in FAR 45.501. It includes such items as aircraft, space vehicles, engines, similar components, and related support equipment.

[54 FR 28308, July 5, 1989, as amended at 61 FR 47084, Sept. 6, 1996]

1845.502 Contractor responsibility.**1845.502-1 Receipts for Government property.**

Receipts for Government property shall comply with the instructions for preparing NASA Form 1018, NASA Property in the Custody of Contractors (see 1845.7101).

[54 FR 28308, July 5, 1989, as amended at 61 FR 47084, Sept. 6, 1996]

1845.502-70 Government-furnished property.

All initial Government-furnished property must be described in the contract Schedule or specifications, regardless of property category. Any additional Government-furnished property must be described in a bilateral modification to the contract, with the property categorized and priced. Furthermore, to obtain Government-furnished facilities, the contractor must submit the written statement prescribed by FAR 45.302-1(a)(4). In the event a formal facilities application is also required by the contracting officer, its justification statement on financing will satisfy this requirement.

1845.502-71 Contractor-acquired property.

All contractor-acquired property must be authorized by the contract and is subject to a determination by the contracting officer that it is allocable to the contract and reasonably necessary. The acquisition (and fabrication) of Government property is further subject to the following conditions, depending on category of property:

(a) *Facilities.* (1) Prior contracting officer approval, if the facilities are not already described in a contract Schedule as contractor-acquired.

(2) Submission of DD Form 1419, DOD Industrial Plant Requisition, or equivalent format, and return of Certificate of Nonavailability if the facilities qualify as centrally reportable equipment (CRE).

(3) Submission of the written statement prescribed by FAR 45.302-1(a)(4).

(b) *Special test equipment.* (1) Contracting officer approval 30 days in advance if the equipment is not identified in the invitation for bids (in sealed bidding) or contract (in negotiated procurements).

(2) Submission of DD Form 1419, or equivalent format, and return of Certificate of Nonavailability if the equipment (or any component) qualifies as CRE.

(c) *Special tooling.* (1) If the contract contains a Subcontracts clause, advance notification to the contracting officer and contracting officer consent if required by that clause.

(2) If the contract is a fixed-price contract, submission of the list to the contracting officer within 60 days after delivery of the first production end items (or later as prescribed by the contracting officer), unless the tooling is already identified in the solicitation.

(3) Submission of DD Form 1419 or equivalent format and return of Certificate of Nonavailability if the tooling (or any component) qualifies as CRE.

(d) *Material.* If the contract contains a Subcontracts clause, advance notification to the contracting officer and contracting officer consent if required by that clause.

(e) *Agency-peculiar property.* (1) If the contract contains a Subcontracts

clause, advance notification to the contracting officer and contracting officer consent if required by that clause.

(2) Submission of DD Form 1419, or equivalent format, and return of Certificate of Nonavailability if the property (or any component) qualifies as CRE.

[54 FR 28308, July 5, 1989, as amended at 61 FR 47084, Sept. 6, 1996]

1845.505 Records and reports of Government property.

1845.505-2 Records of pricing information.

If DD Form 250's are used by a NASA installation as invoices or DD 250's or other shipping/delivery documents are used for property receiving purposes, unit prices must be shown for each item of Government property included on the forms.

1845.505-14 Reports of Government property.

When required by the contract, the contractor shall submit a report of NASA Property in the Custody of Contractors, NASA Form 1018, in accordance with the instructions on the form, in subpart 1845.71, and the contract clause at 1852.245-73. Contractor property control systems shall distinguish between Government furnished and contractor acquired property classification shown in FAR 45.505-14(a) (1) through (5).

[61 FR 47084, Sept. 6, 1996]

1845.505-670 Reporting centrally reportable equipment (CRE).

(a) NASA-furnished or contractor-acquired CRE as defined in 1845.501 shall be reported to the NASA Equipment Management System (NEMS). The contractor shall initially report all unreported items in its possession and subsequently shall report items to NEMS:

(1) At the time of receipt and acceptance of accountability,

(2) When major changes occur in the data initially submitted to NASA, and

(3) When the equipment is no longer required for or actively being used in pursuit of NASA programs or projects. Reporting shall be accomplished by completing section I of DD Form 1342,

DOD Property Record (see 1845.7102), or by other means acceptable to the contracting officer, provided DD Form 1342-equivalent data elements are furnished. The data furnished when the equipment is reported pursuant to paragraph (a)(3) of this section shall include the equipment's current condition code. Reportable data shall be forwarded through the contracting officer of the cognizant NASA installation within 15 working days after the event that created the need for their preparation and shall be marked "FOR NEMS".

(b) The forms prepared for components shall be clearly marked "COMPONENT".

(c) Each year, the industrial property officer shall provide the contractor a list of NEMS data bank records as of June 30th for that contractor. The contractor shall verify the list or provide the necessary corrections.

1845.508 Physical inventories.

NASA contractors shall reconcile inventories described in FAR 45.508 with the official property records and submit reports to the property administrator within 30 days after inventory completion. The contractor shall investigate all losses of property and discoveries of unrecorded property to determine the:

(a) Causes of the discrepancy and

(b) Actions needed to prevent its recurrence.

Subpart 1845.6—Reporting, Redistribution, and Disposal of Contractor Inventory

1845.604 Restrictions on purchase or retention of contractor inventory.

(a) No contractor may sell contractor inventory to persons known by it to be NASA or DOD personnel who have been engaged in administering or terminating NASA contracts.

(b)(1) The contractor's or subcontractor's authority to approve sale, purchase, or retention at less than cost by a subcontractor, and the subcontractor's authority to sell, purchase, or retain at less than cost contractor inventory with the approval of the contractor or next higher-tier subcontractor does not include authority to approve—

(i) A sale by a subcontractor to contractor or the next higher-tier subcontractor or to an affiliate of the contractor or of either subcontractor; or

(ii) A sale, purchase, or retention at less than cost by a subcontractor affiliated with the contractor or next higher-tier subcontractor.

(2) Each excluded sale, purchase, or retention requires the written approval of the plant clearance officer.

1845.606 Inventory schedules.

1845.606-1 Submission.

See 1845.505-6 for special instructions on intra-agency screening of centrally reportable equipment (CRE).

1845.607 Scrap.

1845.607-70 Contractor's approved scrap procedure.

(a) When a contractor has an approved scrap procedure, certain property may be routinely disposed of in accordance with that procedure and not processed under this subpart.

(b) A plant clearance case shall not be established for property disposed of through the contractor's approved scrap procedure.

(c) The plant clearance officer shall review the contractor's scrap and salvage procedure, particularly regarding sales, before its approval by the property administrator. The plant clearance officer shall ensure that the procedure contains adequate requirements for inspecting and examining items to be disposed as scrap. When the contractor's procedure does not require physical segregation of Government-owned scrap from contractor-owned scrap and separate disposal, care shall be exercised to assure that a contract change that generates a large quantity of property does not result in an inequitable return to the Government. In such a case, the property administrator shall make a determination as to whether separate disposition of Government scrap would be appropriate.

(d) Scrap, other than that disposed of through the contractor's approved scrap procedure, shall be reported on appropriate inventory schedules for disposition in accordance with the provisions of FAR part 45 and this NASA FAR Supplement.

(e) Silver, gold, platinum, palladium, rhodium, iridium, osmium, and ruthenium; scrap bearing such metals; and items containing recoverable quantities of them shall be reported to the Defense Reutilization and Marketing Service, DRMS-R, Federal Center, Battle Creek, MI 49017-3092, for instructions regarding disposition.

1845.608 Screening of contractor inventory.

1845.608-1 General.

NEMS Coordinators are the focal points at NASA installations for intra-agency screening of centrally reportable equipment (see 1845.505-670). Property Disposal Officers (PDO's) are the focal points at NASA installations for intra-agency screening of all other contractor inventory. NEMS Coordinators/PDO's shall acknowledge receipt of inventory schedules within 30 days and simultaneously provide the plant clearance officer a NASA screening completion/release date. Screening shall be accomplished in accordance with NASA Handbooks 4200.1 and 4300.1.

1845.608-6 Waiver of screening requirements.

The Director, Logistics Management Office (Code JLG), has been designated to authorize exceptions to screening requirements.

[54 FR 28308, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 58 FR 51141, Sept. 30, 1993; 60 FR 16063, Mar. 29, 1995]

1845.610 Sale of surplus contractor inventory.

1845.610-2 Exemptions from sale by GSA.

Letters seeking exemptions from GSA-conducted sales shall be directed to the Director, Logistics Management Office (Code JLG).

[54 FR 28308, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 60 FR 16063, Mar. 29, 1995]

1845.610-3 Proceeds of sale.

When payments are due the contractor under the contract, and unless the contract provides otherwise, the Government Property clause requires that

the proceeds of any sale, purchase, or retention be:

(a) Credited to the Government as part of the settlement agreement,

(b) Otherwise credited to the price or cost of the work covered by the contract, or

(c) Applied in the manner directed by the contracting officer.

The plant clearance officer shall maintain an open suspense record until he or she has verified that credit has been applied, unless another Government representative has specifically assumed this responsibility.

1845.610-4 Contractor inventory in foreign countries.

Foreign disposals shall be accomplished in accordance with NASA Handbook 4300.1.

1845.613 Property disposal determinations.

Determinations to abandon or destroy NASA contractor inventory shall be referred to the installation PDO for subsequent review by the Property Disposal Review Board under NASA Handbook 4300.1.

1845.615 Accounting for contractor inventory.

In addition to the distribution requirements for Standard Form 1424, Inventory Disposal Report, a copy of the form shall be provided to the NASA installation Industrial Property Officer or PDO.

Subpart 1845.70—NASA Equipment Management System

1845.7001 Policy.

In accordance with the policies in FAR part 8, new equipment shall not be designed, developed, or procured unless it is determined that the requirement cannot be satisfied with items already available. Accordingly, before acquisition by an installation or the issuance of an authorization to a contractor to acquire new centrally reportable equipment (see 1845.501), the NASA Equipment Management System (NEMS) shall be screened and a certificate of non-availability issued by the cognizant installation NEMS Reutilization Coordinator, attesting to the

non-availability of existing Government-owned equipment to satisfy the requirement.

1845.7002 Application.

The NEMS requirements apply to all NASA acquisitions under which equipment reportable to NEMS is acquired either by NASA or by a NASA contractor for use in the performance of NASA work.

1845.7003 General.

NEMS is an agencywide accountability and control system that includes basic information for reutilization of equipment valued at \$500 or more held by NASA installations or \$1,000 or more held by NASA contractors. General-purpose or standard items of commercial manufacture are registered in NEMS.

1845.7004 Interface with NEMS coordinators and technical project office.

NASA contracting officers with contracts subject to NEMS shall maintain close interface with the installation NEMS Reutilization Coordinator and the technical project office in:

(a) The conduct of contractor reporting to the NEMS,

(b) The screening of NEMS records before authorizing contractors to acquire equipment,

(c) The reporting and processing of equipment no longer required for NASA programs or projects, and

(d) All other matters pertaining to compliance with the property provisions of NASA contracts.

1845.7005 Retention of NEMS equipment.

The contracting officer may authorize retention of NEMS equipment, provided the contractor requests approval in writing concurrently with reporting to NEMS under the provisions of 1845.505-670 and provided the equipment is being:

(a) Held for approved future NASA programs and projects identified to a specific requirement; or

(b) Used on other Government work as approved by the contracting officer. Approval for the use of equipment on other Government work shall not exceed 6 months beyond its use on NASA

work unless loan of the equipment under an interagency agreement has been arranged or action has been initiated for transfer of the equipment to the using agency and appropriate time is allowed for completing the transfer.

Subpart 1845.71—Forms Preparation

1845.7101 Instructions for preparing NASA Form 1018.

This section provides guidance in the preparation of NASA Form 1018 (see subpart 1853.3), which is required of all contractors that have been furnished, or have acquired, Government-owned property under the terms of their contract. This report provides information for NASA financial statements and property management; accuracy and timeliness of the report are, therefore, very important. Contractors shall retain documents which support the data reported on NF 1018 in accordance with FAR subpart 4.7, Contractor Records Retention. Classifications of property, related costs to be reported, and reporting requirements are set forth in this subpart.

[54 FR 28308, July 5, 1989, as amended at 61 FR 47084, Sept. 6, 1996]

1845.7101-1 Property classification.

(a) Contractors shall report costs in the classifications required on NF 1018, as described in this section. For Land, Buildings, Other Structures and Facilities, and Leasehold Improvements, contractors shall report the amount for all items with a unit cost of \$5,000 or more and useful life of 2 years or more. For Plant Equipment, Special Tooling, Special Test Equipment and Agency-Peculiar Property, Contractors shall separately report—

(1) The amount for all items with a unit cost of \$5,000 or more and a useful life of 2 years or more, and

(2) All times under \$5,000, regardless of useful life.

(b) Contractors shall report the amount for all Materials, regardless of unit cost.

(c) Land. Includes costs of land, improvements to land, and associated costs incidental to acquiring and preparing land for use, for example; ap-

praisal fees, clearing costs, drainage, grading, landscaping, plats and surveys, removal and relocation of the property of others as part of a land purchase, removal or destruction of structures or facilities purchased but not used, and legal expenses.

(d) Buildings. Includes costs of buildings, improvements to buildings, and fixed equipment required for the operation of a building which is permanently attached to and a part of the building and cannot be removed without cutting into the walls, ceilings, or floors. Examples of fixed equipment required for the functioning of a building include plumbing, heating and lighting equipment, elevators, central air conditioning systems, and built-in safes and vaults.

(e) Other structures and facilities. Includes costs of acquisitions and improvements of structures and facilities other than buildings; for example, airfield pavements, harbor and port facilities, power production facilities and distribution systems, reclamation and irrigation facilities, flood control and navigation aids, utility systems (heating, sewage, water and electrical) when they serve several buildings or structures, communication systems, traffic aids, roads and bridges, railroads, monuments and memorials, and non-structural improvements, such as sidewalks, parking areas, and fences.

(f) Leasehold improvements. Includes costs of improvements to leased buildings, structures, and facilities, as well as easements and right-of-way, where NASA is the lessee or the cost is charged to a NASA contract.

(g) Equipment. Includes costs of commercially available personal property for use in manufacturing supplies, performing services, or any general or administrative purpose; for example, machine tools, furniture, vehicles, computers, accessory or auxiliary items, and test equipment.

(h) Construction in progress. Includes costs for work in process for the construction of Buildings, Other Structures and Facilities, and Leasehold Improvements to which NASA has title.

(i) Special tooling. Includes costs of equipment and manufacturing aids (and components and replacements of

these items) that are of such a specialized nature that, without substantial modification or alteration, their use is limited to the development or production of particular supplies or parts, or to the performance of particular services. Examples include jigs, dies, fixtures, molds, patterns, taps and gauges.

(j) Special test equipment. Includes costs of equipment used to accomplish special purpose testing in performing a contract, and items or assemblies of equipment.

(k) Material. Includes costs of NASA owned property held in inventory that may become a part of an end item or be expended in performing a contract. Examples include raw and processed material, parts, assemblies, small tools and supplies. Does not include material that is part of work in process.

(l) Agency-peculiar property. Includes actual or estimated costs of completed items, systems and subsystems, spare parts and components unique to NASA aeronautical and space programs. Examples include aircraft, engines, satellites, instruments, rockets, prototypes and mock-ups. The amount of property, title to which vests in the Government as a result of progress payments to fixed price subcontractors, shall be included to reflect the pro rata cost of undelivered agency-peculiar property.

(m) Contract work-in-process. Includes the costs of all work-in-process and excludes the costs of completed items reported in other categories.

[61 FR 47084, Sept. 6, 1996]

1845.7101-2 Transfers of property.

The procedures in this section apply to all types of transfers. Only Government installations may furnish Government property to a contractor. Therefore, procurement, property, and financial organizations at NASA Centers must effect all transfers of accountability, although physical shipment and receipt of property may be made directly by contractors. Such transfers include shipments between contractors of the same installation, contractors of different installations, a contractor of one installation to another installation, an installation to a contractor of another installation, and

a contractor to another Government agency or its contractor. So that NASA may properly control and account for transfers, they shall be adequately documented. The procedures described in this section shall be followed in all cases, to provide an administrative and audit trail, even if property is physically shipped directly from one contractor to another. Property shipped between September 1 and September 30, inclusively, shall be reported by the shipping contractor, regardless of the method of shipment, unless written evidence of receipt at destination has been received. Property provided under fixed price repair contracts remains accountable to the cognizant NASA Center and is not reportable on NF 1018; property provided for repair under a cost-reimbursement contract, however, is accountable to the contractor and reportable on NF 1018.

(a) Approval and notification. The contractor must obtain the approval of the contracting officer or designee for transfers of property before shipment. Each shipping document must contain contract numbers, shipping references, property classifications in which the items are recorded, unit prices, and any other appropriate identifying or descriptive data. Unit prices shall be obtained from records maintained pursuant to FAR part 45 and part 1845 of this chapter. Shipping contractors shall furnish a copy of the shipping document to the cognizant property administrator. Shipping and receiving contractors shall promptly notify the financial management office of the NASA Center responsible for their respective contracts when accountability for Government property is transferred to, or received from, other contracts, contractors, NASA Centers or Government agencies. Copies of shipping or receiving documents will suffice as notification in most instances.

(b) Reclassification. If property is transferred to another contract or contractor, the receiving contractor shall record the property in the same property classification and amount appearing on the shipping document. For example, when a contractor receives an item from another contractor that is identified on the shipping document as

equipment, but that the recipient intends to incorporate into special test equipment, the recipient shall first record the item in the equipment account and subsequently reclassify it as special test equipment. Reclassification of equipment, special tooling, special test equipment, or agency-peculiar property requires prior approval of the contracting officer or a designee.

(c) Incomplete documentation. If contractors receive transfer documents having insufficient detail to properly record the transfer (e.g., omission of property classification, unit prices, etc.) they shall request the omitted data directly from the shipping contractor or through the property administrator as provided in FAR 45.505-2.

[20 FR 47085, Sept. 6, 1996]

1845.7101-3 Computing costs of fabricated special tooling, special test equipment, agency-peculiar property and contract work in process.

(a) Costs shall be computed in accordance with accepted accounting principles, be reasonably accurate, and be the product of any one or a combination of, the following:

(1) Abstracts of cost data from contractor property or financial records.

(2) Computations based on engineering and financial data.

(3) Estimates based on NASA Form 533 reports.

(4) Formula procedures (e.g., using a 50 percent factor for work in process items, on the basis of updated Standard Form 1411 estimates or the contractor's approved estimating and pricing system).

(5) Other approved methods.

(b) Contractors shall report costs using records that are part of the prescribed property or financial control system as provided in this section. Fabrication costs shall be based on approved systems or procedures and shall include all direct and indirect costs of fabricating Government property.

(c) The contractor shall redetermine the costs of items returned for modification or rehabilitation.

(d) The computation of work in process shall include the costs of associated systems, subsystems, and spare parts and components furnished or acquired and charged to work in process pending

incorporation into a finished item. These types of items make up what is sometimes called production inventory and include programmed extra units to cover replacement during the fabrication process (production spares). Also included are deliverable items on which the contractor or a subcontractor has begun work, and materials that have been issued from inventory.

[61 FR 47085, Sept. 6, 1996]

1845.7101-4 Type of deletion.

Contractors shall report the types of deletions from contract property records as described in this section.

(a) Adjusted. Changes in the deletion amounts, if any, that result from mathematical errors in the previous report.

(b) Lost, damaged or destroyed. Deletion amounts as a result of relief from responsibility under FAR 45.503 granted during the reporting period.

(c) Transferred in place. Deletion amounts that result from a transfer of property to a follow-on contract with the same contractor.

(d) Transferred to center accountability. Deletion amounts that result from transfer of accountability to the NASA Center responsible for the contract, whether or not the items are physically moved.

(e) Transferred to another NASA Center. Deletion amounts caused by transfer of accountability to NASA Center other than the one responsible for the contract, whether or not the items are physically moved.

(f) Transferred to another Government agency. Deletion amounts that result from transfer of property to another Government agency.

(g) Purchased at cost/returned for credit. Deletion amounts due to contractor purchase or retention of contractor acquired property as provided in FAR 45.605-1; or to contractor returns to suppliers under FAR 45.605-2.

(h) Disposal through plant clearance process. Deletions other than transfers; i.e., donations to eligible recipients, sold at less than cost, or abandoned/directed destruction.

[61 FR 47085, Sept. 6, 1996]

1845.7101-5 Contractor's privileged financial and business information.

If a transfer of property between contractors will involve disclosing costs of a proprietary nature, the contractor shall furnish unit prices only on those copies of the shipping documents that are sent to the shipping and receiving NASA installations. Transfer of the property to the receiving contractor shall be on a no-cost basis.

[61 FR 47086, Sept. 6, 1996]

1845.7101-6 Space hardware reporting requirements.

(a) The contracting officer may require reporting on space hardware for cost reimbursement and incentive contracts and first-tier subcontracts if the estimated cost and fee of the contract exceeds \$500,000 and any one or a combination of the individual reporting categories (i.e., completed space hardware, components and spare parts, and work in process) exceeds \$75,000.

(b) The contracting officer shall specify the items of space hardware for reporting before June 1 of each year on the basis of the Annual List of Selected Items of Space Hardware, issued by the Director of Financial Management, NASA Headquarters (Code BF).

(c) Reporting shall become effective with the next report period beginning July 1, or as otherwise stipulated in the contract, and shall continue until all specified items of space hardware are delivered, the contract is terminated, or the item is removed from the List.

(d) The reports shall contain—

(1) The reportable items on hand, consisting of the cost and quantity of completed space hardware and the cost of related independent completed systems and subsystems;

(2) The total amount for completed spare parts and components relating to paragraph (d)(1) of this section; and

(3) The total amount for work in process of fabrication relating to the preceding items.

(e) Costs reported on Schedule II shall not be considered in reimbursing the contractor for work performed or for termination proceedings. Costs shall be computed in accordance with accepted accounting principles, be rea-

sonably accurate, and be the product of any one, or a combination, of the following:

(1) Abstracts of cost data from the contractor's property or financial records.

(2) Computations based on engineering and financial data.

(3) Estimates based on NASA Form 533 reports.

(4) Formula procedures (e.g., using a 50-percent factor for work-in-process items, on the basis of updated Standard Form (SF) 1411 estimates or the contractor's approved estimating and pricing system).

(5) Other approved methods.

(f) If the same item is being fabricated for more than one project, contractors shall report by contract item the completed space hardware, related independent systems and subsystems, spare parts, and work in process.

(g) When a contract provides for two or more different and completed space property items, some of which are not included in the List, contractors shall report the actual cost of those items, if possible, or use a reasonable basis permitted by the contractor's records or a basis provided in paragraph (e) of this section.

(h) Contractors shall report the cost of items of space hardware, systems, and subsystems using their records that are part of the prescribed property or financial control system as provided in 1845.7101-3; however, fee, tooling, and other nonrecurring costs shall be excluded. Fabrication costs shall be based on the contractor's approved estimating and pricing or property control system and should include—

(1) Direct labor;

(2) Direct materials and purchased parts (costs of purchased items shall be consistent with the contractor's approved pricing methods);

(3) Other direct costs (e.g., computer costs, travel, and transportation);

(4) Overhead (a percentage factor or rate applied to the direct costs or other applicable base); and

(5) Costs of Government-furnished property applied (data available from the shipping document—e.g., DD Form 250, 1149, or similar form—or estimated if necessary).

1845.7101-10 Contractor's privileged financial and business information.

If a transfer of property between contractors will involve disclosing costs of a proprietary nature, the contractor shall furnish unit prices only on those copies of the shipping documents that are sent to the shipping and receiving NASA installations. Transfer of the property to the receiving contractor shall be on a no-cost basis.

1845.7102 Instructions for preparing DD Form 1342.

The instructions in this section shall be used in the preparation of DD Form 1342, DOD Property Record, to report newly acquired equipment, items not previously reported, major changes in the data initially submitted, or equipment no longer required for or actively being used in the pursuit of NASA programs or projects. Use of DD Form 1342 is not mandatory if the same information is provided in an alternative format. Only one initial report is required. In-use items shall be reported initially to the NASA Equipment Management System (NEMS) through the contracting officer (see 1845.505-670) by use of this form by checking "Active" and "Initial" in Block 1. Identify idle items being initially reported by checking "Idle" and "Initial" in Block 1.

Block 1. Check appropriate boxes to indicate "Active" or "Idle" report and that the report is an "Initial" or "Changed" report.

Block 2. Enter the Julian date of preparation of the form. The first character is the last digit of the current calendar year, and the next three characters are the Julian date of the year.

Block 3. Enter the Identification Number/ Government Tag Number as recorded on the identification plate affixed to the equipment.

SECTION I—INVENTORY RECORD

Block 4. Not applicable.

Block 5. Enter the first four digits of the National Stock Number, if known.

Block 6. Indicate in dollars (omit any symbols, decimal points, commas, etc.) the acquisition cost used for property accounting purposes. This acquisition cost is the price of the basic item plus any accessories and auxiliary equipment procured and delivered with it. If the initial acquisition cost data are not available, use an estimated acquisition cost (based on known costs at the time of manufacture of the same or similar equipment),

price lists for the period involved, or the best available price from other sources in NASA or DOD that will achieve conformity of prices for like items of equipment.

Block 7. Not applicable.

Block 8. Enter the last two digits of the year the item was manufactured. If the actual year of manufacture cannot be determined, estimate the date and place an "E" immediately preceding the entry.

Blocks 9 through 13. Not applicable.

Block 14. Enter the name of the manufacturer of the equipment being reported. Do not use a distributor's or vendor's name. Enter "Unknown" when the manufacturer is not known.

Block 15. This is a five-digit numerical code identifying the manufacturer, obtained from Cataloging Handbook H4-1.

Block 16.

a. Enter the manufacturer's model, style, or catalog number for the equipment being reported. Always use the model number, if available. Style number is next in preference. When the manufacturer does not assign a model, style, or catalog number, enter "None".

b. When unable to locate a model number, refer to the manufacturer's brochure or purchase order. If the model number is obtained from other than the equipment, indicate the source in "Remarks," Block 54.

Block 17. Enter the serial number taken from the equipment. If a serial number is not assigned to the item, enter "None".

Blocks 18 through 21. Not applicable.

Block 22. Enter Certificate of Nonavailability number from Block 41, DD Form 1419 or other screening document.

Block 23. Not applicable.

Block 24. Not applicable.

Block 25. Enter the complete contract number under which the contractor is accountable for the item. This normally will be a facility contract number. Otherwise, enter the procurement contract number.

Block 26. Enter the complete description of the item.

Block 27. Not applicable.

Block 28. Enter the NASA installation or company name, street address, city, state, and zip code of the physical location of the equipment. If the physical location is a subcontractor's plant, enter the name of the prime contractor above the subcontractor's name. Do not use the office address if different from the plant address. If no street address exists, enter "No street address".

Blocks 28a and 29. Not applicable.

SECTION II—INSPECTION RECORD

Not applicable, except for Block 52, which should be completed when reporting (in accordance with 1845.505-670) that an item is no longer required for or actively being used in pursuit of NASA programs or projects.

SECTION III—REMARKS. NOT APPLICABLE

SECTION IV—DISPOSITION RECORD. NOT
APPLICABLE

SECTION V—VALIDATION RECORD. NOT
APPLICABLE

**1845.7103 Instructions for preparing
DD Form 1419.**

(a) The contractor shall enter the essential information covering Sections I and II before submission of DD Form 1419, DOD Industrial Plant Equipment Requisition, to the NEMS Coordinator. The NEMS Coordinator shall review each submission for completeness and authenticity. Incomplete or invalid requests shall be returned for correction. The original and two copies of the approved DD Form 1419, or equivalent format, may be forwarded to Defense Industrial Plant Equipment Center (DIPEC) for screening of inventories. Upon completion of the screening process, DIPEC will annotate the results of the screening in section IV or V. Certification of nonavailability when cited in section V is evidence that screening has been accomplished by NASA/DIPEC. DIPEC will return the original and one copy of the request to the NEMS Coordinator of the cognizant NASA installation indicated in section III.

(b) When a suitable item is allocated in section IV, inspection of the equipment is recommended. Notification of acceptance or rejection of the item offered must reach NASA/DIPEC within 30 days after allocation. A copy of the DD Form 1419, or equivalent format, will serve as the clearance document to inspect the equipment at the storage site. Note acceptance or rejection of the item, without inspection or after inspection in section VI. If the item is acceptable, execute section VII. Cite the NASA appropriation symbol where applicable in section VII. In either instance, acceptance or rejection, the NEMS Coordinator shall return the original of the DD Form 1419, or equivalent format, to DIPEC when items have been offered by DIPEC.

(c) The NEMS Coordinator shall assign a requisition number to each DD Form 1419, or equivalent format request. If DIPEC will be screened, the NEMS Coordinator shall code each

number assigned for automatic data processing by DIPEC. The NEMS Coordinator shall also identify the requiring installation and provide a serial number and date of submission for subsequent reference. The NEMS Coordinator shall begin the requisition number with the appropriate installation FEDSTRIP/MILSTRIP Activity Address Code.

(d) Next will be a four-digit entry comprised of the last digit of the current calendar year and the Julian date of the year. For instance, February 4, 1969, would be written as 9035. The last entry will be a four-digit number from 0001 to 9999 to sequentially number requisition forms prepared on the same date. For example, the ninth requisition prepared on February 1, 1969, would be 9032-0009, preceded by the FEDSTRIP/MILSTRIP Activity Address Code. When submitting subsequent DD Forms 1419, or equivalent format, related to the item requested, the NEMS Coordinator shall use the same requisition number and add the alpha code to the end of the requisition number to indicate a second or third action on the basic request. Alpha "A" would indicate a second request, "B" a third, etc. In this manner, all actions, correspondence, etc., relative to a given request can be identified at all levels of processing by the use of the requisition number.

(e) Detailed directions for completing the DD Form 1419 follow. When DIPEC listed equipment is not being requested, the contractor may elect to provide the required data in an equivalent format, which complies with these directions.

SECTION I

Item Description. To ensure adequate screening, the item description must be complete. For single-purpose equipment or general-purpose equipment with special features, requests must contain detailed descriptive data as to size and capacities, setting forth special operating features or particular operations required to be performed by the item.

Block 1. Not applicable.

Block 2. Enter the manufacturer's name and Federal Supply Code for manufacturer (Cataloging Handbook H4-1) of the item requested.

Block 2a. Enter the manufacturer's model, style, or catalog number assigned to the

equipment being requisitioned. Always use the model number, if available. The style number is the next preference. Enter "None" in this block if the model, style or catalog number is not known.

Block 3. Enter the four-digit Federal Supply Class (FSC).

Block 4. Not applicable.

Block 5. Self-explanatory.

Block 6. Place an "X" in the applicable block to indicate whether you desire to physically inspect the item before acceptance.

Block 7. Self-explanatory.

Block 8. Enter the complete description of the item. Continue the description in Block 51 if additional space is needed.

SECTION II

Block 9. Enter the contractor's name, street address, city, state, and zip code from which the requisition is being initiated. The address should be the one to which inquiries of a technical nature will be referred. Specify the name and telephone number of an individual who will respond to inquiries concerning the request.

Blocks 10 and 10a. Enter the contract number or document number and the date of the document authorizing acquisition of the items shown in Section I. This normally will be a facility contract number. Otherwise it should be a purchase order or procurement request number.

Block 11. Not applicable.

Block 12. Disregard the "Military" block. Show the NASA contract number and program for which the item is to be used.

Block 13. Enter the specific function to be performed by the equipment. When applicable, enter the tolerances, capacities, specifications, etc., that the equipment must satisfy.

Block 14. Determine the date the item must be installed to meet production requirements. From this date deduct the estimated number of days required for installation. Enter the adjusted date in this block.

Block 15. Enter the date by which NASA must issue a Certificate of Nonavailability. Determine the date by subtracting the procurement lead time and 30 days administrative lead time from the date shown in Block 14.

Block 16. Enter the Defense Priority and Allocations System (DPAS) rating assigned to the contract or anticipated purchase order, if applicable.

Block 17. Place an "X" in the appropriate box. If for replacement, identify the item being replaced and the reason for replacement.

Block 18. Place an "X" in the appropriate box. Show the appropriation symbol if the answer is "yes."

Block 19. Not applicable.

Blocks 20 and 21. In addition to the official's title and signature, type the signing

official's name, office symbol or name, and telephone number plus extension. The company representative who prepares and submits the requirement to the cognizant NASA certifying office should sign.

Block 22. Self-explanatory.

Block 23. The contracting officer of the NASA installation having jurisdiction over the contract shall certify the need for the item. However, the NEMS Coordinator may certify the need for NASA in-house requirements.

Block 23a. Not applicable.

Block 23b. Enter the name and address of the installation certifying the requirement.

Block 23c. This block is for signature of the property administrator or contracting officer at plant level.

Block 23d. Self-explanatory.

Block 23e. This block is for the signature of NASA installation official certifying the requirement.

Block 23f. Self-explanatory.

SECTION III

This section is for the NEMS Coordinator's certification of the requirement to DIPEC, when applicable.

Blocks 24 through 27. Self-explanatory.

SECTION IV

To be completed by DIPEC (a copy is used for admittance to storage site for inspection of property).

SECTION V

DIPEC or the NEMS Coordinator shall complete this section if equipment is unavailable.

SECTION VI

Blocks 42 through 45. The requesting official signing section II, Block 20, shall complete Section VI and shall list reasons for non-acceptance in Section VIII, Remarks, or on a separate document attached to the DD Form 1419.

SECTION VII

Block 46. Enter the complete name, street address, city, state, and zip code of the contractor or installation to which the item is to be shipped. Indicate railhead and truck delivery points when other than the address named.

Blocks 47 and 48. Self-explanatory.

Blocks 49a and b. Ensure that NASA appropriation symbols are included with the work order number.

Block 49c. Enter the NASA appropriation symbol chargeable for any special work ordered (e.g., rebuild, repair, or accessory replacement).

Block 49d. Enter the NASA installation and office symbol for the organization that will

make payment for transportation and packing, crating, and handling.

Block 50. Self-explanatory.

SECTION VIII

Block 51. This block can be used to expand or explain entries made in Blocks 1 through 50. When requisitioning equipment from excess listings, identify the issuing office, list number, date, control number, and item number assigned to the equipment.

Subpart 1845.72—Contract Property Management

1845.7201 Definitions.

Category, as used in this subpart, means a major segment of a contractor's property control system (e.g., acquisition, receiving, records, storage and movement, consumption, utilization, maintenance, physical inventories, subcontractor control, or disposition).

Characteristic, as used in this subpart, means a segment of a functional area subject to analysis or review. Characteristics are classified as Class I, subject to statistical sampling, and Class II, subject to judgment or observation techniques.

Lot, as used in this subpart, means an aggregation of documents, records, articles, or actions selected for review because of common characteristics. For evaluation of the lot, all characteristics for which a lot is tested must be common to all units within the lot.

Property control system, as used in this subpart, identifies a contractor's internal management program encompassing the protection of, preservation of, accounting for, and control of property from its acquisition through disposition.

Supporting responsibility, as used in this subpart, relates to the assignment of a subcontract, or a portion of a prime contract being performed at a secondary location of the prime contractor, to a property administrator other than the individual assigned to the prime location.

1845.7202 General.

This subpart describes major elements of the NASA Contract Property Management Program. It provides guidance to NASA installation personnel responsible for NASA contract

property (NASA personal property in the possession of contractors). It applies to all NASA installation personnel charged with this responsibility, including industrial property officers and specialists, property administrators, and plant clearance officers. It also provides detailed procedures for property administration. The NASA Contract Property Management Program includes the following three major elements:

(a) Performance of property administration and plant clearance by DOD under delegations from NASA, pursuant to 1842.101.

(b) Performance of property administration and plant clearance by NASA under certain situations, pursuant to 1842.203.

(c) Maintenance of property administration and plant clearance functional oversight, regardless of delegations, pursuant to 1842.175.

1845.7203 Delegations of property administration and plant clearance.

When delegated to DOD, property administration and plant clearance are performed in accordance with DOD's regulations and procedures, as amended by the NASA Letter of Contract Administration Delegation, Special Instructions on Property Administration and Plant Clearance. These Special Instructions are developed by NASA Headquarters, Logistics Management Office Code JLG, and are available from that office upon request. The contracting officer shall issue the Special Instructions with delegations whenever Government property will be involved. Additional or more tailored property instructions are not proscribed but must be coordinated with Code JLG before issuance.

[54 FR 28308, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 58 FR 51141, Sept. 30, 1993; 60 FR 16063, Mar. 29, 1995]

1845.7204 Retention of property administration and plant clearance.

NASA may occasionally retain the property administration and plant clearance function, such as for contract work performed at the installation awarding the contract and not

subject to the clause at 1852.245–71, Installation-Provided Government Property. In these cases, property administration shall be performed in accordance with subparts 1845.2 through 1845.7, and plant clearance shall be performed in accordance with FAR subpart 45.6 and subpart 1845.6. Under the clause at 1852.245–71, property administration and plant clearance are neither delegated nor retained; they are simply not required because the property is treated as installation rather than contract property.

1845.7205 Functional oversight of property administration and plant clearance.

NASA contracting officers retain functional management responsibility for their contracts. Utilization of the contract administration services of another Government agency in no way relieves NASA contracting officers of their ultimate responsibility for the proper and effective management of contracts. The functional management responsibility for contract property is outlined below. Beyond individual contracting officers, each NASA installation has designated an industrial property officer to manage and coordinate property matters among the various contracting officers, technical officials, contractor officials, and delegated property administrators and plant clearance officers. Generally, that individual is responsible for the entire contract property management function outlined below; the installation is responsible for the entire function regardless of how it is organized and distributed. The responsibilities are as follows:

- (a) Provide a focal point for all management of contract property, including Government property (Government-furnished and contractor-acquired) provided to universities as well as to industry.
- (b) Provide guidance to contracting and other personnel on the NASA property provisions.
- (c) To the extent feasible, review property provisions of procurement plans, solicitations, contracts, and modifications for potential problems. Propose changes as necessary.

- (d) To the extent feasible, participate in pre-award surveys/post-award orientations when significant amounts of Government property will be involved.

- (e) Ensure that vesting-of-title determinations are made and documented pursuant to FAR 35.014(b).

- (f) Maintain effective communications with delegated property administrators and plant clearance officers to keep fully informed about contractor performance and progress on any property control problems.

- (1) Obtain and review property control system survey summaries for all contracts for which property administration has been delegated. Advise Headquarters Code JLG of any severe or continuing problems.

- (2) Provide property administrators copies of all pertinent contract property documentation.

- (g) Work with the NASA Equipment Management System (NEMS) Coordinator and contracting officers to ensure contractor reporting to and screening of NEMS.

- (1) Monitor contractors' performance in submitting DD Form 1419's or equivalent request format before acquiring centrally reportable equipment (CRE) and in submitting DD Form 1342's or equivalent report format after receiving CRE.

- (2) Ensure that an annual NEMS verification is performed in accordance with 1845.505–670(c) and NHB 4200.1, paragraph 4.406b.

- (h) Review and analyze NASA Form 1018's, Reports of Government-Owned/Contractor-Held Property.

- (1) Ensure an annual comparison of 1018's with NEMS in accordance with NHB 4200.1, paragraph 4.406c, to detect possible over/under reporting to NEMS and possible failure to screen NEMS.

- (2) Check new disparities disclosed under paragraph (h)(1) of this section, with the appropriate property administrator and document the results.

- (i) Negotiate, or ensure the negotiation of, facilities contracts when required by FAR 45.302 and 1845.302. Advise Headquarters Code JLG annually of new and completed facilities contracts.

- (j) Review property administrators' approvals of relief of responsibility for lost, damaged, and destroyed property

and question any excessive or repetitive approvals.

(k) When appropriate, make recommendations to source and performance evaluation boards regarding property management and award fee criteria and evaluations regarding property management.

(l) Monitor plant clearance status to preclude delays in contract closeout.

(m) Maintain contract property files for all transactions and correspondence associated with each contract. Upon receipt of Standard Form 1424, Inventory Disposal Report, and DD Form 1593, Contract Administration Completion Record, or equivalents, merge all property records for the contract and forward for inclusion with the official completed file.

(n) Perform on-site property administration and plant clearance when they are not delegated to DOD and the property is not subject to the clause at 1852.245-71. (The remainder of this subpart provides detailed guidance on such property administration).

[54 FR 28308, July 5, 1989, as amended at 57 FR 40855, Sept. 8, 1992; 58 FR 51141, Sept. 30, 1993; 60 FR 16063, Mar. 29, 1995]

1845.7206 Responsibilities of property administrators and plant clearance officers.

1845.7206-1 Property administrators.

(a) When property administration is not delegated to DOD, the property administrator shall evaluate the contractor's management and control of Government property and ascertain whether the contractor is effectively complying with the contract provisions. The property administrator's responsibilities include—

(1) Developing and applying a system survey program for each contractor under the property administrator's cognizance;

(2) Evaluating the contractor's property control system and approving or recommending disapproval;

(3) Advising the contracting officer of any (i) contractor noncompliance with approved procedures and (ii) other significant problems the property administrator cannot resolve, and recommending appropriate action, which

may include disapproval of the contractor's property control system;

(4) Resolving property administration matters as necessary with the contractor's management, personnel from Government procurement and logistics activities, and representatives of the NASA Office of the Inspector General, of the Defense Contract Audit Agency (DCAA), and of other Government agencies; and

(5) Recognizing the functions of other Government personnel having cognizance of Government property and obtaining their assistance when required. (These functions include, but are not limited to, contract audit, quality assurance, engineering, pricing, and other technical areas. Assistance and advice on matters involving analyses of the contractor's books and accounting records and on any other audit matters deemed appropriate shall be obtained from the cognizant auditor.)

(b) The participation of property administrators (or other Government industrial property personnel) in pre-award surveys/post-award orientations is required whenever significant amounts of Government property will be involved, in order to reveal and resolve property management problems early in the procurement cycle.

1845.7206-2 Plant clearance officers.

When plant clearance is not delegated to DOD, NASA plant clearance officers shall be responsible for—

(a) Providing the contractor with instructions and advice regarding the proper preparation of inventory schedules;

(b) Accepting or rejecting inventory schedules and DD Form 1342;

(c) Conducting or arranging for inventory verification;

(d) Initiating prescribed screening and effecting resulting actions;

(e) Final plant clearance of contractor inventory;

(f) Pre-inventory scrap determinations, as appropriate;

(g) Evaluating the adequacy of the contractor's procedures for property disposal;

(h) Determining the method of disposal;

- (i) Surveillance of any contractor-conducted sales;
- (j) Accounting for all contractor inventory reported by the contractor;
- (k) Advising and assisting, as appropriate, the contractor, the supply and equipment management officer, other Federal agencies, and higher headquarters in all actions relating to the proper and timely disposal of contractor inventory;
- (l) Approving the method of sale, evaluating bids, and approving sale prices for any contractor-conducted sales;
- (m) Recommending the reasonableness of selling expenses related to any contractor-conducted sales;
- (n) Securing antitrust clearance, as required; and
- (o) Advising the contracting officer on all property disposal matters.

1845.7207 Initiation of property administration.

1845.7207-1 Control of assignments.

- (a) The procurement officer or a designee shall establish and maintain a Contract Assignment Control Register for each contractor, showing the—
 - (1) Contractor's name and address;
 - (2) Contract number;
 - (3) Type of contract;
 - (4) Date of assignment of the property administrator and his or her name; and
 - (5) Date of completion or termination of the contract, or transfer of the property administrator.
- (b) Property reported received at a contractor's plant without contractual coverage shall be recorded in a suspense file, pending investigation and resolution by the property administrator.

1845.7207-2 Analysis of contract and establishment of contract property control data files.

- (a) The property administrator shall analyze each contract providing for Government property to estimate the property administration effort to be applied. The analysis shall be sufficient to establish the management controls necessary for ensuring compliance with contract requirements and development of a suitable system survey program.

- (b) The property administrator shall establish Property Summary Data Record containing—

- (1) The contractor's name and address, and the contract number;
- (2) The type of contract, modifications (including change orders), and special or nonstandard clauses pertaining to Government property;
- (3) The date of final review and date of execution and transmittal of the DD Form 1593 or equivalent;
- (4) Supporting property administration assignments; and
- (5) Name(s) of the property administrator(s) and date(s) of tenure.
- (c)(1) The property administrator shall establish a Contract Property Control Data File, which shall include as a minimum—
 - (i) The Property Summary Data Record;

- (ii) A copy of the contract or provisions pertinent to property administration, and comparable data regarding any subcontracts involving Government property;

- (iii) The record of initial review, evaluation, and approval of the contractor's property control system; and, if applicable, the record of withdrawal of approval and basis for it, reinstatement of approval, and deviations granted;

- (iv) A record of visits and property system surveys performed, including appropriate work papers, deficiencies disclosed, and corrective actions taken;

- (v) Contractor's receipts for Government property, when required;

- (vi) The record of final review and execution of the property administrator's statement of closure of the contract property account;

- (vii) Other pertinent correspondence and documents, including, as applicable, inventory adjustments, investigations, recommendations, and determinations;

- (viii) Records concerning supporting property administration delegations; assist actions involving special reviews; and other applicable reviews at subcontractor's plants;

- (ix) Records of inspection and audits performed by other activities; and

- (x) Reports relating to Government property prepared by the contractor pursuant to the contract.